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## Introduction

In the aftermath of the civil war and genocide in Rwanda in 1994 and the establishment of a new transitional Government in Rwanda, certain important developments have taken place in the areas of security and human rights. International human rights organisations and other international observers have reported these developments.

Since the 1994 genocide in Rwanda the Home Office in the United Kingdom (UK) has considered applications from Rwandan nationals on their individual merits. However, where these applications have been refused there has been a policy of granting Exceptional Leave to Remain (ELR). Also, since 1994 the Danish Immigration Service has granted asylum to Rwandan nationals either as conventional refugees or as *de facto* refugees. Both practices are based on the general lack of security in Rwanda in the aftermath of the genocide.

Attached is a table presenting statistical information regarding the numbers of Rwandan asylum applications lodged within selected European countries during 2000 and 2001 (see Annex 1).

In the autumn of 2001 the British Home Office and the Danish Immigrations Service discussed the possibility of undertaking a joint fact-finding mission to Rwanda. Subsequently the two immigration authorities drew up a proposal for a joint Terms of Reference. At the beginning of December 2001 it was finally decided to undertake a joint mission to Rwanda in early 2002.

Representatives of the two immigration services met in Copenhagen in January 2002 and again in Brussels in February 2002 in order to make preparations for the mission. In Brussels the delegation consulted representatives of the Belgian immigration authorities, representatives of the Belgian appeals court, Professor Filip Reyntjens, University of Antwerp, and the editor of *Dialogue*, Charles Ntampaka, who is living in exile in Belgium. These consultations provided the delegation with important background information and facilitated the planning of the mission.

The mission took place between 3 March and 27 March 2002. The delegation visited Nairobi, Kenya in Kigali, Gitarama and Ruhengeri in Rwanda (see Annex 2) and Arusha in Tanzania. During these visits the delegation consulted the Rwandan authorities, western embassies, UN-organisations, international and local human rights organisations, humanitarian organisations, representatives of the church, representatives of the political opposition, the press, and individuals. The delegation also consulted the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania.

During the mission the delegation received assistance from the British Embassy in Kigali, who organised and coordinated a number of meetings for the delegation. In addition a number of meetings in Rwanda were organised by the delegation itself. The Rwandan authorities facilitated the delegations visits to the Central Prison in Gitarama and Kanombe International Airport in Kigali. At no time did the Rwandan authorities interfere with, or impede the work of the delegation in Rwanda.

The report also includes information from a number of written sources. Among these are documents, reports, books etc. from UN agencies, news agencies, humanitarian NGOs and researchers specialising in Rwanda. These sources where used are appropriately attributed. (See section 13 - References).

The British-Danish delegation to Rwanda comprised of Andrew Fleming, Country Officer, Country Information and Policy Unit (CIPU), Asylum and Appeals Policy Directorate (AAPD); Brendan O’Leary, Senior Caseworker, Integrated Casework Directorate (ICD), both part of the Immigration and Nationality Directorate (IND), Home Office, London and Jens Weise Olesen, Senior Adviser - Africa, Documentation and Research Division, Danish Immigration Service (DIS), Copenhagen.

The report from the mission has been jointly written by the delegation.

It should be noted that a number of persons consulted in Rwanda requested not to be directly quoted in the delegations public report, as they feared persecution or harassment from the Rwandan authorities. This request has been met. The same sources did not, however, object to be included in the list of persons consulted (see section 13: Persons, organisations and authorities consulted).

Throughout the report where information from a specific source has been used a reference to the source concerned is first made. Unless clearly stated otherwise the section of the report that follows such a reference is based upon the information provided by the source initially referred to. It should also be emphasised that the report is entirely based upon information gathered by the delegation and does not include their personal opinions.

The report was finalised on 25 April 2002. Before finalising the report, the mission’s findings were shared and discussed in a meeting with United Nations High Commissioner for Refugees (UNHCR) Headquarters in Geneva.

## 1. Political and administrative situation

### 1.1 The “Fundamental Law” of 1995

1. The “Fundamental Law” of 1995 forms the transitional constitution for Rwanda, and it is based on selected articles of the 1991 constitution, the terms of the Arusha Accord of October 1993, the Rwandan Patriotic Front’s (RPF) Victory Declaration of July 1994 and the November 1994 Multiparty Protocol of Understanding.<sup>1</sup>

2. Rwanda’s Transitional National Assembly (TNA) adopted the "Fundamental Law" on 5 May 1995.

### 1.2 Recent political and administrative developments

3. In his report dated May 2001 on governance, justice, human rights and political developments in Rwanda the Belgian professor Filip Reyntjens stated that the period under review, 2000 – 2001 was much less eventful than the previous one, during which, in the first trimester of 2000 the Speaker of the National Assembly, the Prime Minister and the President of the Republic were all replaced.<sup>2</sup>

4. In October 2001 International Crisis Group (ICG) described Rwanda as “a country at war”, and ICG considered that this at least partly explains the tight political control that the Government of National Unity (GNU) exercised over the district elections last year.<sup>3</sup> Reyntjens stated that the organisation of these local or district elections was presented by the Rwandan Government and some of its partners as an important step on the road to democratisation. However, the ballot of 6-7 March 2001 does not augur well for the future of democracy in Rwanda, according to Reyntjens. Firstly he found the elections “very indirect and of Byzantine complexity”. Secondly there was information about the pressure brought to bear both on candidates and on voters. People who wished to be candidates were “dissuaded” from running, whereas others who were reticent were “encouraged” to do so. The pressures took the form, amongst others, of visits from the army, or threats of imprisonment and loss of employment. Despite this roughly 45 per cent of the elections had only one candidate. Reyntjens explained the large participation in the elections by the fact that many people were convinced that the vote was compulsory and that they ran the risk of being fined or imprisoned if they did not participate.<sup>4</sup>

5. Reyntjens explained to the delegation that the State apparatus in Rwanda is very strong, “possibly one of the strongest in Sub-Saharan Africa”. There is a very strong centralised power in Rwanda, which Reyntjens described as “democratic centralism”. However, important Hutu and

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<sup>1</sup> Europa Regional Surveys of the World, Africa South of the Sahara – 2001, Rwanda, Europa Publications.

<sup>2</sup> Filip Reyntjens, *Again at the Crossroads: Rwanda and Burundi, 2000-2001*, Uppsala, May 2001, p. 5.

<sup>3</sup> International Crisis Group, *Consensual Democracy in Post-Genocide Rwanda, Evaluating the March 2001 District Elections*, Africa Report No. 34, Nairobi/Brussels, 9 October 2001, p. iii.

<sup>4</sup> Filip Reyntjens, *Again at the Crossroads: Rwanda and Burundi, 2000-2001*, Uppsala, May 2001, p. 6.

Tutsi opposition platforms are in the process of being established. This process also includes monarchist groups (see section 4.7).

6. Reyntjens considered that an “inter-Rwandan dialogue” could pose a serious threat to President Kagame. If the European Union (EU) and others put pressure on the Kagame to accept such a dialogue he would surely lose influence and political power in Rwanda. However, Reyntjens explained that Kagame is “a military man and he is used to wars”. Reyntjens added that he had personally met Kagame on several occasions when Kagame lived in Nairobi, Kenya.

7. Charles Ntampaka, editor of *Dialogue*, Brussels, said that power in Rwanda is concentrated in the hands of a few who control the Government. He mentioned the head of the Directorate of Military Intelligence (DMI), Jack Nziza; commander of Kigali, Ibingira; the Attorney General, Gérard Gahima; Commissioner General of the Police, Frank Mugambage; and former Secretary General in RPF, Dr Rudasingwa<sup>5</sup> (a brother to Gérard Gahima). According to Reyntjens, Kagame’s inner circle consists of five to six powerful persons. He mentioned among others the head of DMI, and army commander Kabarebe.

8. Reyntjens explained that the Government of President Paul Kagame is not as strong as normally would be the case in Rwanda. Rebel activity has weakened his centralised power and he does not fully control the military leaders of the country. Besides, Rwanda’s “genocide credit” is almost exhausted and Kagame is becoming aware of that. Numerous critical reports about governance and human rights in Rwanda have contributed to this development.

9. However, according to Dr. Zac Nsenga, Secretary-General of the Ministry of Internal Affairs, the most decisive element in the present Government of Rwanda is the fact that it is based on a coalition of eight parties according to the a power-sharing agreement. He emphasised that political freedom exists in Rwanda and that all registered parties can operate at the level of “political bureau”. This means that they cannot agitate or recruit members, and at the moment no further parties than those eight already registered can be established. This is in accordance with the Arusha Agreement. Nsenga emphasises that parties that are not already part of the Rwandan Government coalition cannot legally operate within Rwanda. It is illegal to form new political parties in the country.

10. Nsenga admitted that the RPF is the dominating party in Rwanda but he added that several ministers are from other parties of the coalition, i.e. the Minister of Internal Affairs and the Prime Minister who are both from the Mouvement Démocratique Républicain (MDR).

11. The Rwandan News Agency (RNA) refer to there being six political parties represented in the Government of National Unity of the Republic of Rwanda:<sup>6</sup>

- Rwandan Patriotic Front (RPF)
- Mouvement Démocratique Républicain (MDR)
- Parti Social Démocrate (PSD)

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<sup>5</sup> A western embassy in Kigali (C) advise that Dr Rudasingwa is the Director of Cabinet.

<sup>6</sup> IRIN, Nairobi, 12 April 2002



- Parti Libéral (PL)
- Parti Démocrate Chrétien (PDC)
- Parti Démocrate Islamique (PDI)

12. In addition to the parties listed above, according to information provided by a western embassy in Kigali (C) the following two political parties are also represented in the national assembly together with the Rwandan Patriotic Army (RPA).

- Parti Socialiste Rwandais (PSR)
- Union Démocratique du Peuple Rwandais (UDPR)

13. A western embassy in Kigali (A) commented that one of the main areas of improvement in Rwanda was the Government's commitment in tackling the economic problems in Rwanda.

14. The embassy also commented that the Rwandan Government was serious in tackling the problem of corruption. It was claimed that there were many instances where Government officials lost their jobs because they were corrupt. The police in Rwanda were a vast improvement on many of their contemporaries in neighbouring countries, such as Tanzania.

15. The above mentioned source stated that it seems as if the central power base of the RPF is shrinking. There also seems to be various power struggles within the RPF, belying the image of the RPF as a monolithic power. There are a number of men who form the "inner circle" of the RPF, and the embassy stated that it believed the central figures in the RPF were Paul Kagame; the Director of DMI, Jack Nziza; the Director of External Services, Patrick Karegeya; and the Acting Chief of Staff, Brigadier General James Kabarebe. The embassy also pointed to the underlying tensions within the Government i.e. between the Anglophone Ugandan Tutsi (of Rwandan nationality), who control the Government, the Francophone Rwandan Tutsi, who survived the genocide and the majority Hutu. The embassy also mentioned the possibility that certain actions taken by some in power were designed to undermine others in power.

16. The same source also commented that there is a minority elite group who retains power in Rwanda and they do not want to let go of power. Yet despite this, the Government does want effective and good governance. The embassy highlighted the process of decentralisation and the existence of effective Ministry's as examples of the positive efforts being made by the Government.

17. It was observed by the same source that the Government of Rwanda has problems; they are sensitive about dissent and portraying a positive public image in respect of a number of issues although they could not care less about others.

18. A western embassy in Kigali (D) commented that President Kagame rules the nation with the assistance of a small and shrinking clique. The source believed that former President Bizimungu, who has popular support amongst many Rwandans, would have a good chance of being successful in any future election.

19. Moreover, an informed anonymous source in Kigali commented that RPF injustices have occurred since the party came to power. As they took control of the country in 1994 there were many killings both of those believed to have been involved in the genocide and innocent civilians who were invited to meetings when the RPF captured new areas and then massacred.

20. The same source commented that today Rwanda is ruled by Kagame and a small clique of Ugandan Tutsi. Around them they had Tutsi from Burundi, then the Democratic Republic of Congo (DRC) and only after these come the Tutsi genocide survivors from Rwanda. On the outside of the administration are the Hutu who support the current administration.

21. A western observer in Kigali commented that the political and human rights situation is a very complex and complicated area. The source believed it is correct that the international community should heed the Government's plea that the political and human rights situation in Rwanda should be looked at in context of the history of the country.

22. The source also stated that the Rwandan Government wishes to push forward a policy of practical governance, but on its own terms. According to the source the Government is "acutely aware that it is a minority power". It was further explained that the Government is aware that it cannot hold onto power forever and therefore is attempting to build strong institutions that will withstand a return to the ethnic issues.

23. The aforementioned source further explained that, "the RPF machinery is a multi-headed beast". There is a suspicion among some that there is a paramilitary force within the RPF, which is willing to act independently to the political executive. There is a mixture of both of these in RPF today, those who can work within the parameters of civil Government and those who will not. Therefore, ideologists such as Rudisingwa and Secretary General of Ministry of Local Government, Musoni are trying to put in place robust institutions before the RPF loose power. Moreover, there are also some suggestions that President Kagame is not even the central power figure of the RPF.

24. A western embassy in Kigali (D) confirmed that the formal administrative structure in Rwanda is as follows:

- Cell – equivalent to block.
- Sector – equivalent to neighbourhood.
- District – equivalent to town.
- Province<sup>7</sup> – equivalent to county.
- National.

25. Regarding the *Nyumbakumi*, (This translates as ten houses though it is a loose term. It can mean a smaller or larger number but it is the lowest level of the community below cell level. Someone is identified as the leader for each small group of -10 or so - houses) the source considered these fell outside the formal government structure and were something of a historical legacy that, whilst still part of the informal structure in some areas, were no longer part of every community nation-wide.

### **The land issue**

26. In the case of the land issue a western embassy in Kigali (C) accepted that there was a possibility that a small number of individuals could encounter problems. However, the source considered the culture of people using "powerful friends" to influence land cases was not as

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<sup>7</sup> The role of provinces will eventually be downgraded and the 106 Districts will report direct to the national level.

prevalent as the use of such contacts in many other African countries. Through contact with the local population in the course of his duties the source did not regard the land issue as a major concern for the population.

27. The aforementioned source did however add that the land would become a major issue with the advent of a new land bill. It was explained that the current situation is that individuals may not own land; they just have the right to use land providing that they use it effectively. If land is not used effectively the authorities can redistribute it amongst the population. Under the proposed new law the source understood that individuals would have a right to own land. It was considered that at this point chaos would be likely to ensue administratively in seeking to establish who is entitled to own which land.

28. A representative of an international human rights organisation in Kigali particularly highlighted the problems related to the property issue and land ownership, which could become a major concern and form a basis for false accusations. The source considered the land issue as a highly explosive problem in Rwanda.

29. A western observer in Kigali also referred to the issue of land reform. Both returning refugees and released prisoners may find their properties occupied. This is something that needs to be addressed as it may lead to tensions. (See also the section 9.5: Reclaiming of former assets by returnees).

30. According to the US Department of State Rwandan women are allowed to inherit property.<sup>8</sup> (See also the section 4.10: Widows, orphans and children).

### **1.3 Plans for transition to democracy**

31. The United Nations Commission on Human Rights (UNCHR) reported in March 2001 that Rwanda was undergoing enormous changes at in several important areas such as decentralisation, the transition to democracy, plans to draw up a new constitution, overhauling of the justice system with the introduction of *Gacaca* courts (see section 5.2: *Gacaca* court system) and the promotion of a culture of human rights, unity and reconciliation.<sup>9</sup>

32. Following the commune elections in March 2001 a statement from the presidential spokesman referred to the poll as a key component in the Government's Democratisation and Decentralisation programme. The statement also confirmed that the process would continue with parliamentary and presidential elections in three years' time, after a new constitution had been drafted and ratified by the people in a referendum.<sup>10</sup>

33. Nsenga informed the delegation that the cell-elections in 1999 in Rwanda were a very positive step towards democracy and stability in the country. These elections created a positive atmosphere and the March 2001 district-elections confirmed this development.

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<sup>8</sup> US Department of State, Rwanda, Country Reports on Human Rights Practices 2000: 23 February 2001.

<sup>9</sup> United Nations, Economic and Social Council, Commission on Human Rights: Question of the violation of human rights and fundamental freedoms in any part of the world, Situation of human rights in Rwanda, Note by the secretariat (E/CN.4/2001/45Add.1), 21 March 2001, p. 2.

<sup>10</sup> IRIN, Nairobi, 8 March 2001.

34. ICG stated, in a report titled *Consensual Democracy in Post Genocide Rwanda: Evaluating the March 2001 District Elections*, that the elections were an important step in the country's transition to civilian democracy from the highly militarised system of government established in the aftermath of the 1994 genocide.<sup>11</sup>

35. In contrast to the above, the Netherlands and Canadian based anti-government organisation, Rassemblement pour la Démocratie et le Retour des Réfugiés (RDR) rejected the commune elections as non-free and unfair. The RDR condemned democratic donor countries financing of the elections, which it described as a violation of Rwandans' civil and political rights, and also a means of "prolonging indefinitely the RPF's monopoly on power".<sup>12</sup>

36. A western embassy in Kigali (C) commented that the Government of Rwanda have a good line to account for the current ban on multi-party political activity. They simply point to the fact that the Legal and Constitutional Review Commission (LCRC) is charged with consulting the population and drawing up a new constitution to be presented to the population at the end of the period of transition in July 2003. Nevertheless, the source acknowledged that most arguments revolve around this issue.

37. The above mentioned source further explained that political opponents question how the Government of Rwanda can wait until mid 2003 before liberalising. They complain that it would not provide them with an opportunity to mobilise the population and that this in turn presents the RPF with an unfair advantage; the source added, "this is absolutely true."

38. The source also observed that any attempt to become politically active or "open up a political space" before the LCRC complete drafting the new constitution and put this to the people would not be well received by the Government. The Government argue that there is a process to follow, that this is in accordance with the Arusha Accords and, whilst the process is at the stage of consultation with the population they cannot change anything. The source commented that this is a fair point.

39. According to a western observer in Kigali there are a number of critical milestones coming up. Firstly, the *Gacaca* system. Many Category Two detainees (those suspected of murder), who admit guilt will have their sentences halved from fifteen years to seven or eight, which would mean that many will be in line for immediate release. This may give rise to tensions between the genocide survivors and those released.

40. Secondly, the source saw the Government's policy of decentralisation as an area of concern. As central Government is not functioning properly, there is a real risk that local Government will not function properly resulting in negative consequences.

41. An informed anonymous source in Kigali expressed the view that if Presidential elections do take place they will be useless as the Electoral Commission is RPF dominated and its chairman appoints all members and decides who can stand as a candidate.

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<sup>11</sup> International Crisis Group, *Consensual Democracy in Post-Genocide Rwanda, Evaluating the March 2001 District Elections*, Africa Report No. 34, Nairobi/Brussels, 9 October 2001.

<sup>12</sup> IRIN, Nairobi, 8 March 2001.

42. The same source commented that anyone in the National Assembly who is critical of the Government is dismissed from the Assembly and the political parties making up the Government of Rwanda are “useless” as all are infiltrated by the RPF. Whilst there are limitations on the activities of all parties, the source commented that some parties have small numbers of members – a figure of 120 was given for the PSD. However, according to the same source the RPF are out recruiting new members every day. It was claimed that 11 out of 12 Heads of Prefectures<sup>13</sup> were now RPF members, having previously been aligned to PSD or MDR, and there was now pressure on the remaining one – from Butare – to join.

43. In respect of the ongoing work of the LCRC the aforementioned source alleged that they were selective in the views of the population that were being represented. In particular it was alleged that in their consultations the LCRC only heard what the RPF wanted to hear and those who wanted a return to multi-party democracy were not represented. The RPF may attempt to establish stooge parties to show people that they are not against the establishment of new political parties – just the Parti Démocratique pour le Renouveau-UBUYANJA (PDR).<sup>14</sup>

44. An informed expatriate in Kigali expressed the view that “the Government does not work for the country; they want to make money for themselves”. The source regarded the establishment of new political parties as a danger and the Government will put barriers against anybody not representative of their views standing in elections even at a local level. The source gave an example of a friend who had been intimidated into not standing as a *bourgmestre*.<sup>15</sup>

45. The same source explained that during the district elections in March 2001 there had been no opposition for 45% of candidates. In districts with few Tutsi, or just Hutu nobody would contest a seat. The source explained that the authorities would attempt to block anyone who does not accept the RPF ideology from standing in an election. It was added that where there is more than one candidate it is still likely that those standing have all passed through the “RPF filter”.

46. The source commented that Kagame wants legitimate power, but expressed doubt that the Presidential elections would take place within the current timetable. The completion of the new constitution and subsequent referendum would overrun and that elections would be postponed for several months or maybe a year.

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<sup>13</sup> County administration.

<sup>14</sup> See section 4.7: Parti Démocratique pour le Renouveau -UBUYANJA (PDR).

<sup>15</sup> Mayor.

## 2. The security situation

### 2.1 Background of the security situation since the 1994 genocide

47. In 1990 the Tutsi dominated RPF invaded Rwanda from its bases in southern Uganda.<sup>16</sup> The RPF was mainly composed of Rwandan Tutsi groups in exile in Uganda and they intended to overthrow the Rwandan Government and the President, Major-General Juvénal Habyarimana. Under pressure from western donors Habyarimana agreed in 1992 to establish a broadly based coalition government consisting of the ruling party Mouvement Révolutionnaire National pour la Démocratie et le Développement (MRNDD) and the Mouvement Démocratique Républicain (MDR), Parti Social Démocrate (PSD), Parti Libéral (PL), and Parti Centriste Démocrate (PCD). However, the RPF continued its offensive and reached the outskirts of Kigali. French forces were called in to assist the Habyarimana-government but fighting continued.

48. In the autumn of 1993 Habyarimana accepted to share power with the Hutu opposition and with the RPF. He also agreed to incorporate the RPF's military wing, the Rwandese Patriotic Army (RPA) into a new Rwandan army. The Arusha Accord of October 1993 resulted in the deployment of 2,500 UN troops in Kigali, but Habyarimana delayed the implementation of the Arusha Accord while the training of Hutu militias intensified and the extremist radio station, Radio-télévision Libre des Mille Collines (RTLNC) stepped up its campaign against the Tutsi communities. For a number of years the Hutu population of Rwanda had been exposed to a persistent campaign of anti-Tutsi indoctrination. In 1994 human rights groups in Rwanda warned the international community of impending calamity, and in March 1994 many foreigners began to evacuate their families from Kigali. On 6 April 1994 Habyarimana was killed together with president Cyprien Ntaryamira of Burundi when their plane was shot down near Kigali. The same day RTLNC told its audience that "Tutsis need to be killed". That night the killing began.

49. In July 1994 the RPF defeated the Rwandan army and the government fled to the DRC. On July 19 the RPF set up an interim Government (GNU) with a Hutu, Pasteur Bizimungu as president, but the majority of the cabinet posts was assigned to members of RPF.<sup>17</sup> The genocide has been estimated to have left between 800,000 and one million dead, and vast numbers wounded, raped, terrorised, orphaned and separated from their families. Those targeted were not only Tutsi but also moderate Hutu who supported the power sharing agreement.

50. According to the International Crisis Group (ICG) the Rwandan GNU has been preoccupied with its own security ever since the RPF came to power in July 1994, especially as thousands of so-called *génocidaires* reorganised as Hutu-militias in neighbouring DRC.

51. The Rwandan Hutu-militia, the Interahamwe and Rwanda's former government forces, the Hutu dominated Forces Armées Rwandaises (FAR) were both originally supported by president Mobutu Sese Seko of former Zaire and later by both president Laurent Kabila and his son, the current

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<sup>16</sup> The following is based on information compiled in *Rwanda Assessment* by the Country Information and Policy Unit (CIPU), Immigration and Nationality Directorate of the Home Office, October 2001.

<sup>17</sup> A western embassy in Kigali (C) advised that Bizimungu was also a member of the RPF at this time.

president of the DRC, Joseph Kabila. Both FAR and Interahamwe were responsible for the April-July 1994 genocide of the Tutsi in Rwanda. The FAR coordinated and participated in the genocide and then fled together with Interahamwe to the Kivu area in eastern DRC.

52. ICG admits that the threat posed to Rwanda by these Hutu-dominated militias and rebel movements in the eastern DRC is serious, and that little has been done by the international community to counter it.<sup>18</sup> Amnesty International (AI) reported in June 2001 that the Rwandan Government claims that the presence of its forces in the DRC is justified by the national security necessity of fighting Rwandan Hutu opponents who use their bases in the DRC to threaten Rwanda.<sup>19</sup> However, according to AI this threat to security in Rwanda cannot justify the killings of thousands of Congolese civilians in the DRC. Since Rwanda's second intervention in the DRC in 1998 AI has received consistent reports about atrocities committed against unarmed civilians from the Kivu region of eastern DRC. The Rwandan Government force RPA is allied with the Goma-based Congolese rebel movement *Ressement Congolaise pour la Démocratie (RCD-Goma)* in its battle against Rwandan Hutu-militias such as Interahamwe and *Armée pour la Libération du Rwanda (ALIR)*<sup>20</sup>, Rwandan ex-FAR soldiers, and Congolese militias, especially the *mayi-mayi* movement.

53. ICG explains that the international community has accepted the RPF's view that security imperatives require military dominance and that genuine political liberalisation in Rwanda will have to wait. This combined with an assumption that the RPF represents a new leadership that is determined to create a new political model based on Rwandan traditional culture has resulted in an implicit international consensus which gives the RPF almost unlimited time to achieve its proclaimed goals.<sup>21</sup> Accordingly the United Nations High Commissioner for Refugees (UNHCR) reported in January 2000 that the security situation in Rwanda has improved since the RPA's intervention in the DRC, particularly in the north-western regions.<sup>22</sup> And the international community, still burdened by guilt over the genocide, ignored reports of human rights abuses and supported the Government of Rwanda generously, hoping to achieve stability in the region.<sup>23</sup>

54. ICG's and UNHCR's statements are supported in a HRW report published in April 2000. This comments that "still burdened by guilt over their failure to intervene to halt the genocide,

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<sup>18</sup> International Crisis Group, *Consensual Democracy in Post-Genocide Rwanda, Evaluating the March 2001 District Elections*, Africa Report No. 34, Nairobi/Brussels, 9 October 2001, p. ii.

<sup>19</sup> Amnesty International, *Democratic Republic of Congo, Rwandese-controlled eastern DRC: Devastating human toll* (AI Index: AFR 62/011/2001), 19 June 2001, p. 3.

<sup>20</sup> According to the Human Rights Watch report "Rwanda: Observing the Rules of War?" - December 2001. The rebel group ALIR is a collective name for rebel forces fighting against the Rwanda government. In spite of the fact that many commanding officers in ALIR did serve in the former Rwandan army (FAR), the majority of the commanding officers were, in fact, neither part of the FAR nor the Interahamwe militia, and were therefore not implicated in the 1994 genocide.

<sup>21</sup> International Crisis Group, *Consensual Democracy in Post-Genocide Rwanda, Evaluating the March 2001 District Elections*, Africa Report No. 34, Nairobi/Brussels, 9 October 2001, p. ii.

<sup>22</sup> UNHCR, Centre for Documentation and Research: *Background Paper on the Human Rights Situation in Rwanda*, Geneva, January 2000, p. 1.

<sup>23</sup> *Ibid*, p. 2.

international actors have not questioned the Rwandan Government's assessment of its own security needs or its judgement of how these needs might best be met. Themselves anxious to see stability in this troubled region and determined to avoid a new genocide, they have concurred in subordinating human rights to supposed security needs.<sup>24</sup>

55. HRW has been critical of the role of the United States (US) in Rwanda, as the US has appeared firm in its political support for the Rwandan Government. In its April 2000 report on human rights abuses in Rwanda HRW criticised the United States for its silence about human rights issues and that the United States continued military assistance program suggest continued tolerance for the unsatisfactory performance of the Rwandan Government.<sup>25</sup> According to a western embassy in Kigali (C) the US assistance programme has now ceased.

## **2.2 Government security apparatus**

56. According to the U.S. Department of State the Rwandan Minister of Defence is responsible for external security and military defence. The Minister of Internal Security is responsible for civilian security matters as well as supervision of the prisons and the national police. The security apparatus consist of the Rwandan Patriotic Army (RPA) and the national police. In addition to these forces a volunteer force of armed civilian local defence units, Local Defence Forces (LDF) with limited arrest powers also works throughout the country. Members of the security forces continued on occasion to act independently of government authority and committed serious human rights abuses during 2001.<sup>26</sup>

57. In its annual report for the year 2001 the HRW expressed concern about the Rwandan security forces re-arresting and even the murdering of former detainees who already had their charges dropped and cases dismissed.<sup>27</sup>

58. According to Reyntjens, the Rwandan security apparatus infiltrate organisations and harass members of the Rwandan opposition. The security apparatus does not operate on its own, but with the consent of the Government and President Kagame. Kagame is deliberately sidelining anyone he suspects of not being in line with the Government. His security forces then prevents his opponents from carrying out their political duties.

### **Rwanda Patriotic Army (RPA)**

59. According to a representative of a human rights organisation in Kigali the RPA is an extremely strong military force, but also a "warmonger-force", which can even turn out to pose a threat to Rwanda itself. The neighbouring countries of Rwanda fear the RPA and Rwanda's problems with Uganda and the DRC can to a certain degree be explained by this fact. The current strained relations between Rwanda and Uganda are due to the fact that president Kagame always talks about security

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<sup>24</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, International Assistance to the Rwandan Government, Volume 12, Number 1 (A), April 2000.

<sup>25</sup> Ibid.

<sup>26</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2001: 4 March 2002.

<sup>27</sup> Human Rights Watch, World Report 2001, Rwanda.



issues. According to the representative Kagame is “security obsessed” and he strongly believes in military solutions.

60. According to the US State Department the RPA continued to carry out extra-judicial killings. Many such killings took place in the Northwest of the country where there were sporadic clashes between the RPA and the ALIR. However, unlike previous years civilians were not targeted by both sides during 2001. There were also credible reports that members of the RPA executed rebel soldiers after they had surrendered.<sup>28</sup> The US State Department also pointed to the killing of Alphonse Mbayire, a RPF officer and a former military attaché to the Rwandan Embassy in Nairobi, in February 2001. A soldier in uniform killed him; as of the end of 2001 no investigation had been undertaken into this incident.

61. The Catholic Peace and Justice Commission (CPJC) believed that the above incident was an example of the Rwandan authorities unwillingness to investigate killings that may have links to the authorities. A western embassy in Kigali (E) commented that “the wheels of justice take a very long time to investigate certain cases”. However, the same embassy was also of the opinion that the RPA were a relatively well-controlled army.

### **Rwanda National Police (RNP)**

62. According to the U.S. Department of State the Rwandan National Police (RNP) has replaced the former *gendarmerie* and the communal police.<sup>29</sup> A western embassy in Kigali (E) highlighted the fact that a large number of police representatives had attended a one-week seminar on the prevention of torture. The seminar was administrated by the Forum for Activists against Torture (FACT). The embassy also commented that the RNP had received some training on human rights.

63. Nsenga informed the delegation that in 2000 the former *gendarmerie*, *police communale* and *police judiciaire* were all united in the RNP. Today the RNP is responsible for national security in Rwanda and its forces consist of 3,600 police officers. The limited forces of the RNP showed the need for a supplementary force. This force was named Local Defence Forces (LDF).

64. The delegation visited the National Police Academy in Ruhengeri. Cyprien Gatete, Chief Superintendent and Commandant of the National Police Academy in Ruhengeri informed the delegation that 130 cadets are being trained continuously at the academy for a six-month period. Of these, eight were women at the time of the visit of the delegation. The Ruhengeri academy is the only police academy in Rwanda. The cadets are being trained in justice, human rights, law and other related subjects. The US Department of State's Diplomatic Security Service supports the academy's training. By the time of graduation the cadets are expected to take up posts as commanders of police in Rwanda's police districts. According to Gatete the aim is to have one police officer per each 1,000 citizens in Rwanda. The figure today is 3,000 citizens per police officer.

65. Ligue des Droits de la Personne dans la Région des Grand Lacs (LDGL) spoke positively about the RNP and also pointed to the fact that the police had attended human rights seminars and the

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<sup>28</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2001: 4 March 2002.

<sup>29</sup> Ibid.

prevention of torture seminars, which the Chief of Police also attended. LDGL also stated that there was now much better communication between the public and the police. Presently, members of the public are able to obtain information from the police regarding detainees etc.

### **Directorate of Military Intelligence (DMI)**

66. It was the opinion of LDGL that there had been an improvement in the behaviour of DMI compared to 1995-98 when they arrested many civilians. LDGL pointed to the National Human Rights Commission's Report 2000 where it told the Government that the DMI, as a military organisation, had no jurisdiction to arrest civilians. According to LDGL this advice has been heeded by the Government and consequently DMI arrests of civilians has ceased.

### **Local Defence Forces (LDF)**

67. According to Nsenga the Local Defence Forces (LDF) is based on the recruitment of local people who are "credible and well respected by the local population". LDF is responsible for security in local areas of Rwanda especially during the night. LDF members wear a uniform and may be armed but it is not always the case. LDF reports to the regional governor. Members of LDF are unpaid. Nsenga explained that LDF are assisting the Rwandan National Police and the local authorities.

68. According to HRW members of LDF killed more than a dozen people and raped and robbed many others in different parts of Rwanda during 2000. Nominally under the supervision of local authorities, they in many cases escaped punishment for their abuses.<sup>30</sup> However, the US State Department reported that in 2001 the LDF<sup>31</sup> were not responsible for any killings of civilians.<sup>32</sup>

69. A western embassy in Kigali (E) commented that the LDF can be somewhat "trigger happy" in their approach and are not as controlled as the RPA.

70. Nsenga admitted that members of LDF have committed crimes against citizens in Rwanda and may even do so today, but he stressed that such crimes are committed by individual members of the LDF and not by the LDF as an institution. He was aware that the US State Department had reported that members of the LDF killed twelve persons in Rwanda during 2000, but he strongly refuted the suggestion that members of LDF or the RNP enjoy impunity. He explained that although the police carry out investigations of harassment or crimes committed by members of LDF or RNP, the system works satisfactorily. Nsenga emphasised that the presence of LDF and RNP forces has created a sense of security throughout the Rwanda.

71. A representative of a human rights organisation in Kigali informed the delegation that the LDF is a "civilian force", which is being armed and equipped with uniforms but its members receive no salary. The representative considered this is a dangerous "cocktail", and stated that any person in such a situation is a potential human rights abuser. LDF members have entered bars and restaurants and ordered customers present to buy them beer and food. LDF members have killed innocent

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<sup>30</sup> Human Rights Watch, World Report 2001, Rwanda, December 2000.

<sup>31</sup> US State Department refer to as Local Defence Units (LDU).

<sup>32</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2001: 4 March 2002.

people. LDF members have also been used to “get rid of” enemies by private persons. Theft by LDF members is also known to take place. In spite of government propaganda the LDF is not a voluntary force consisting of well-respected and informed civilians. Street children have been recruited into the LDF, which has no legal framework to govern it.

72. According to the aforementioned source the LDF has the authority to arrest suspects and detain these in *cachots* (detention centres), but the source emphasised that regarding the LDF there is a complete lack a legal framework and it does not have a budget.

73. A former prominent human rights activist in Kigali found that the LDF is “a dangerous force”. Its members are not educated or trained properly as they are neither police officers nor soldiers. The LDF forces are a potential risk to security in Rwanda as its members are not being paid but at the same they are armed. This is a very dangerous combination in present day Rwanda.

74. According to LDGL, the main area of concern over the Security Forces is the LDF. LDGL believe it is a serious miscalculation to arm these men and at the same time not pay them. They also point to the fact that many of the LDF are ex-soldiers or street children who have no means of survival. Therefore there is a risk that they may abuse their position to facilitate their survival.

75. A western embassy in Kigali (B) commented that previous incidents of indiscipline within the LDF could be attributed to a combination of insufficient training and the tendency of the young men – many of who have been provided with guns – to become aggressive on occasions.

76. The Most Reverend Emmanuel Kolini, Archbishop of the Anglican Church and National Chairman of the Commission for HIV, Kigali acknowledged that there were isolated reports of indiscipline amongst the LDF but that when such cases occur the perpetrators are punished. He understood that villagers elect or recommend members of the LDF and was not aware of anyone being forced to join. He confirmed that his parishioners were satisfied with the service provided by the LDF locally and commented that “because it is the villagers that choose these people they are satisfied they will look after them”.

77. According to a representative of a human rights organisation in Kigali the former Minister of Security in Rwanda did not agree with the status of the LDF and he requested the Rwandan human rights organisation Ligue pour la Promotion des Droits de l’Homme au Rwanda (LIPRODHOR) to supervise the LDF. LIPRODHOR refused to do this as it was of the opinion that the LDF should be under the supervision the Ministry of Internal Affairs, and that the LDF was a potentially dangerous force. Soon thereafter the Minister of Security was dismissed and he then fled Rwanda. The representative stressed that there are no provisions in the law regarding the LDF.

78. The representative also explained that the former “genocide-regime” of Rwanda, i.e. the regime established in the period after the assassination of former president Habyramana, tried to stop the advance of RPA by establishing a civilian local defence force, which soon turned out to be a tool for the *génocidaires*.

79. The above mentioned source spoke of the surprise of the organisation to which they were affiliated when the RPF Government took the decision to establish a local defence force that seemed very similar to the local defence force of the previous “genocide-regime”. However, the source accepted that in certain districts there was a need to secure the population. Nevertheless, the source considered it a mistake to generalise over the need for additional security in certain districts

and establish a RPA controlled local defence force throughout the whole country. The representative stressed that the LDF should not be taken as a guarantee for security throughout Rwanda. Many people dislike or fear the LDF and as there is no war going on in the territory of Rwanda there is no need for such a force as the LDF. The total number of LDF forces is now 36,000 and there are rumours that the Government is preparing for recruitment for another 3,000 new recruits in each of Rwanda's provinces. The LDF poses a serious threat to security in Rwanda as a large number of untrained and undisciplined recruits are in possession of weapons. The representative feared that the LDF could be used in the same way as the Interahamwe was used by the former regime during the genocide.

80. According to a western embassy in Kigali (D) whilst there have been some problems with the LDF these have diminished. The main issue of concern is harassment and abuse of power against street vendors, which can be a particular problem in the cities. In the countryside the LDF are less of a problem. LDF recruitment is conducted at *Sector* level, but many were also taken at *Nyumbakumi* level.

81. An international human rights observer in Kigali had only heard of a very few number of cases where persons had been recruited to the LDF against their own will. This took place in Northwest Rwanda and it was some time ago. The source had also heard of a case in which a number of street children were being rounded up at the market place in Kigali and recruited into the army. This took place one and a half years ago and nobody knows their whereabouts. However, reports of disappearances are very few and in some cases such persons have reappeared in so-called rehabilitation camps.

82. Attempting to explain the creation and ongoing expansion of the LDF a western embassy in Kigali (B) commented that under the Lusaka accord the Rwandan Government has provision for an army of 19,000. However, they need an army of 40,000. Consequently, the authorities are supplementing the shortfall in the army by expanding the LDF.

83. A representative of a human rights organisation in Kigali considered the LDF to be more an external security force than an internal one. The source argued that whenever the RPA are planning an offensive in the DRC it calls in LDF members in Rwanda in large numbers. It was explained that during training the LDF recruits are informed that they are expected to be ready for being sent to the DRC in order to fight for the RPA.

84. An informed anonymous source in Kigali described the LDF as a "dangerous weapon" in the hands of the Government as they can be used to intimidate the population.

85. An informed expatriate in Kigali commented that the LDF forces were often young boys – some only 15 or 16 – who had been chosen by the Government, poorly educated, unpaid and given a gun. It was stated that there was forced recruitment into the LDF, even from amongst street children on the streets of Kigali.

86. Ismaïl Mbonigaba, Chief Editor of *Umuseso* newspaper and Acting Director of Rwanda Independent Media Group (RIMEG) considered the LDF as a RPF militia. No member of LDF would be armed unless he or she is a known supporter of the RPF. This is a fact particularly in the rural districts of the country, according to Mbonigaba. In Kigali one will find a larger degree of political competition between the two factions of the RPF and therefore the political control of LDF members is more relaxed.

### **2.3 Presence of Rwandan military in the DRC**

87. A former prominent human rights activist in Kigali explained that the international community, which the source considered as an empty phrase as the USA is now totally dominant internationally, are requesting Rwanda to withdraw its forces from the DRC. So far Rwanda has refused to do so, but at the same time the international community, i.e. USA, UK and South Africa continues its support for and assistance to Rwanda. The source emphasised that a change of Rwanda's involvement in the civil war in the DRC would only take place if the USA, the UK and South Africa would change their policy towards Rwanda.

88. The source considered the war in Eastern DRC as a "mafia-war" and refuted President Kagame's statements that the reason for the deployment of Rwandan forces in the DRC is to protect Rwandan refugees in the area and to facilitate their return to Rwanda. Rwandan forces need only to be placed on the borders between Rwanda and the DRC in order to protect the refugee and Rwanda. The source found it "ridiculous" to argue that Rwandan soldiers are in the DRC to protect Rwanda refugees and facilitate their return. According to the source the soldiers are in the DRC in order to provide Rwanda with natural resources to the benefit of a small wealthy class of Rwandan citizens. This is an important reason for the conflict between Rwanda and Uganda and the source found that there is a serious risk that eastern DRC will become a Rwandan colony. President Kabila of the DRC will not be successful in establishing peace in the DRC, as this vast and uncontrolled area is not to be considered as a cohesive entity.

89. The above mentioned source emphasised that forced recruitment to the RPA or of persons to fight the war in the DRC does not take place.

90. According to the International Committee of the Red Cross (ICRC) during mid 2001 the Rwandan Commission of Unity and Reconciliation opened two reintegration camps, one in Mudende (Gisenyi) and the other in Nkumba (Ruhengeri) for the purpose of reintegrating some 1,600 former combatants who had either been captured by or surrendered to the RPA.

91. A western embassy in Kigali (D) noted that Rwanda's presence in the DRC was originally for security reasons though other factors have since come into play. The security threat does not justify the presence of troops 1000 km from the border. The international community has not done enough to secure the border area. Now that Rwanda is in the DRC the source remarked that there are many economic reasons for them to remain. The source made reference to a recent UN panel report that stated benefits from the war goes much more into the RPF structure than it does in Uganda where it is more individuals who profit. However, it was remarked that certain senior members of the RPF who are constructing large villas could not have financed these from their basic salaries.

92. When asked to comment on the security situation within the DRC the LDGL claimed that there were some problems in the area south of Kivu. LDGL stated that a new force made up of the Banyamulenge ethnic group had been formed to fight against the RPA and RCD-Goma. The name of this force is Forces République Federal (FRF). LDGL see this as a serious development as one of the reasons the RPA are in Kivu is to protect the Banyamulenge people.

93. An informed anonymous source in Kigali commented that when the war started in DRC not even members of the cabinet were informed. The source claimed that even today members of the cabinet do not know what goes on in the DRC and considered that this demonstrated the complete disregard that the leadership of Rwanda has for the cabinet.

94. The same source did not accept that the continued presence of Rwandan troops in the DRC was for security reasons.

#### **2.4 Current security situation in Rwanda**

95. In April 2000 HRW reported that although the Rwandan authorities insisted that the country continued to face grave threats of attack from abroad and serious dangers from “negative forces” within, armed opposition groups, however labelled, did not pose a continuing threat to security in Rwanda.<sup>33</sup>

96. Nsenga stated that the question of whether the Rwandan Government is in full control of the country is irrelevant as its control is total. He deeply regretted that the HRW never has consulted his ministry, but he informed the delegation that since 1994 between 10,000 and 15,000 ex-FAR soldiers have been integrated into the Rwandan society or the RPA. This integration is taking place in accordance with and in the spirit of the Arusha Accord. However, Nsenga emphasised that those ex-FAR soldiers who participated in the genocide will not be integrated, “they will be punished for their crimes”. The former ex-FAR soldiers will have to undergo a so-called democratisation-programme, and those who are professional soldiers will be integrated into the RPA while others will become civil servants etc. or simply return to their original residential areas. Nsenga added that the Rwandan army’s invasion into DRC during 1996 and 1997 had the purpose to facilitate the return of Rwandan refugees back to Rwanda. According to Nsenga Rwanda is the country in this region of Africa which has the fewest number of its own citizens living as refugees abroad even though the UNHCR does not assist Rwanda in repatriating those Rwandans that are staying as refugees in neighbouring countries.

97. Nsenga explained that the security situation in all districts of Rwanda is now very good. However, poverty and the presence of ex-FAR soldiers in the DRC are the two most important factors influencing the security situation in Rwanda. There have been no serious security problems in any area of Rwanda during the last three years. Even the rebel incursions in June and July of 2001 in the Northwest of Rwanda did pose a threat to the security situation in Rwanda. Stability has prevailed in this area since 1998 and during the incursions last year the Government and its army received widespread support from the population in the Northwest. The rebels were badly received by the people, as they were well aware of the improved economic, social and security situation and the overall positive developments in the area. As a result of this about 1.500 rebels were captured or gave themselves in, and they were placed in “reception centres”. Among those were army commanders, chiefs of staff and also some child soldiers. They all underwent a rehabilitation programme. Nsenga emphasised that the people now believe in the future and that they are no longer ready to support the rebels, as has been the case on earlier occasions.

98. In August 2000 the UN Special Representative of the Commission on Human Rights on the situation on human rights in Rwanda reported that the security situation in Kigali had improved

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<sup>33</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Where is the Insecurity? - Volume 12, Number 1 (A), April 2000.

considerably since 1998 and that the city is generally considered quite safe, certainly much safer than many other capitals around the world.<sup>34</sup>

99. According to a representative of a human rights organisation in Kigali Rwanda's security situation has improved considerably during the last few years. The reason for this is the fact that the warfront has been pushed into the DRC, but this could be a temporary situation, as no one knows what will happen in the future. The representative stressed that there is no longer war in Rwanda, but minor incursions have taken place in certain areas of the south-west during the last few months.

100. A western embassy in Kigali (D) commented that for Rwandan citizens who keep opinions on sensitive issues to themselves the situation is much improved. In particular the security situation is very good.

101. LDGL also pointed to the presence of ex-FAR and Interahamwe rebels in Nyungwe Forest in the south-west of Rwanda as a worrying development.

102. A western embassy in Kigali (A) stated that the loyalty of the civilian population in the north-west of Rwanda is borne out of the brutal manner in which the civilian population was targeted by both the RPA and the Rebels during the fighting that took place in 1997-98.

103. A western embassy (C) in Kigali confirmed that the internal security situation was not a problem for Rwandan nationals who could travel freely within the country. The last reported incidents were in June-July 2001 in the north-west of the country and September 2001 in the Nyungwe Forest region in the south-west of the country.

104. With regard to common crime the source confirmed that criminal activity was increasing slightly but remained low in comparison with most other countries in the region.

105. Kolini commented that in the course of his duties he travels throughout the country. He stated that since war broke out in DRC and troops pushed in, Rwanda has become stable. He considered that it was safe to travel anywhere in Rwanda without a problem including Gikongoro and the Nyungwe Forest. He added that it was safe to go anywhere in Kigali by day or night.

106. According to a prominent intellectual in Kigali there is some difference in the security situation of the individual depending on whether he or she lives in a rural area or in an urban centre. The ability to seek protection from human rights abusers may also vary according to this. Ordinary rural people are much more vulnerable as they normally do not have the same ability to ensure and protect their economic and political rights and they have no option to seek protection from the authorities against bandits and armed groups. Most of their security problems stem from abuses committed by members of the LDF, who are not paid for the service in the LDF. Therefore, members of LDF often extract money and other resources from the local population or individuals. This problem is not so common in urban centres and in Kigali. In Kigali people are not being attacked by the LDF as the presence of the Rwandan National Police provides a degree of security against abuses from LDF-members and others. The source concluded that security is generally much better in urban centres than in rural areas.

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<sup>34</sup> United Nations, General Assembly, Situation of human rights in Rwanda, Note by the Secretary-General, 4 August 2000 (A/55/269), p. 12.

### **3. Human rights monitoring**

#### **3.1 International human rights observers**

107. According to an international human rights observer in Kigali the US based international human rights organisation Human Rights Watch (HRW) is monitoring human rights issues in Rwanda. Since the mid 90's HRW have produced a considerable number of reports on the human rights situation in Rwanda. HRW is currently co-operating with two human rights organisations present in Rwanda: LIPRODHOR and LDGL. LDGL is a regional organisation operating in the Great Lakes Region of Africa. The ICG has also recently produced a number of reports on the security and human rights situation in Rwanda.

108. An informed anonymous source in Kigali commented that the only human rights organisation able to intervene is HRW, who enjoy the protection of the US. According to the US State Department there are a number of international and domestic human rights groups in Rwanda operating without restriction from the Government. The report also states that these groups are able to investigate alleged human rights violations and publish their findings.<sup>35</sup>

#### **3.2 Human rights organisations in Rwanda**

109. According to the US State Department local human rights Non-governmental Organisations (NGOs) activities are often limited to receiving and compiling information on specific human rights violations and conducting selected interviews. Moreover, it was also commented that only one or two local human rights NGOs could be considered as being strictly impartial.<sup>36</sup>

110. A western embassy in Kigali (A) claimed the Rwandan human rights umbrella organisation Collectif des Ligues et Association de Défense des Droits de l'Homme au Rwanda (CLADHO) is corrupted by the Government.

111. A western embassy in Kigali (D) commented that there are five local human rights associations operating within Rwanda and that these five organisations all fall under the umbrella of CLADHO. A number of western embassies in Kigali confirmed, in agreement with US State Department Report that the Government has infiltrated four out of the five organisations in CLADHO and their views are not impartial.

112. The above source confirmed that the five associations that make up CLADHO are as follows:

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- Association de Volontaires pour la Paix (AVP)
- Association Rwandese pour la de France de Droits de l'Homme (ARDHO)
- Kanyarwanda

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<sup>35</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2001: 4 March 2002.

<sup>36</sup> Ibid.



- Association Rwandaise pour la Defense des Droits de la Personne et des Libertes Publiques. (ADL).
- Ligue pour la Promotion des Droits de l'Homme au Rwanda/League for the Promotion of Human Rights in Rwanda (LIPHRODOR).

113. The above mentioned embassy commented that AVP is now more or less inactive and added that ARDHO is also not active. According to the source Kanyarwanda specialises in human rights clubs in schools and is infiltrated by the Rwandan Government who are aware of the organisation's activities and limit them. The source had no information on ADL.

114. According to the same source LIPHRODOR is the only Rwandan organisation not to have been infiltrated by the Government and thus retain its independence. It was remarked that LIPHRODOR does a very good job to keep the Government out and that is why LIPHRODOR is the only organisation that experiences problems with the Government including restriction of activities and intimidation of members. LIPHRODOR is well known and respected outside of Rwanda.

115. The same source claimed that LIPHRODOR deals more with problems faced by Hutu rather than Tutsi and specialises in following genocide trials and the situation in Rwandan prisons. As such the organisation has something of "a Hutu label". An international human rights observer in Kigali informed the delegation that LIPHRODOR has been accused of being dominated by Hutu, but the source declined from stating whether this actually was the case or not.

116. Mbonigaba was of the opinion that LIPHRODOR was not as active as it used to be in Rwanda and is currently being frustrated by the Government.

117. According to a former prominent human rights activist ARDHO still exist as an organisation, but it is now a completely different organisation compared to the period before 1996 when it was active and independent of the Government. An international human rights observer in Kigali confirmed that ARDHO is not as prominent in the field of human rights as it used to be. The source was not aware of exactly what kind of activities ARDHO is involved in. ADL is almost defunct because of internal turmoil and it has got a new board, but only one or two staff members are employed by ADL.

118. An international human rights observer in Kigali added that a new human rights organisation has been founded in Rwanda. It is called Forum for Activists against Torture (FACT) and its main focus is torture-prevention. It is based on support from Tutsi-doctors of Ugandan origin. FACT is a relatively new organisation with a low capacity. According to the International Rehabilitation Council for Torture Victims (IRCT),<sup>37</sup> FACT was established in September 1999, with Noël Twagiramungu as Chairman and President of the organisation. The primary objectives of FACT are to fight torture in Rwanda and around the world and secondly, to contribute to the recognition and the rehabilitation of torture victims.

119. The above mentioned international human rights observer emphasised that LIPHRODOR and LDGL are the only fully independent human rights organisations in Rwanda. A former prominent

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<sup>37</sup> International Rehabilitation Council for Torture Victims (IRCT), Rehabilitation of Torture Victims, Centres and Programmes Worldwide. IRCT, Copenhagen, 2000, p. 172-173.

human rights activist confirmed this. All other human rights organisations in Rwanda are more or less infiltrated or controlled by the Government. This can take place by cooption as members of human rights organisations may also be working for the Government. According to a new law on NGOs in Rwanda, all organisations have to register and the Government has the right to refuse registration if it believes that an organisation has not fulfilled its declared purpose. Kolini confirmed that all NGOs had to complete the registration process by 30<sup>th</sup> March 2002.

120. The above mentioned international human rights observer added that there is a tense relationship between some of the human rights organisations in Rwanda. This is due to competition regarding funding and disagreements concerning politics.

### **3.3 National Human Rights Commission (NHRC)**

121. Tom Ndahiro, Commissioner of National Human Rights Commission (NHRC) explained that NHRC was established on 24<sup>th</sup> May 2001, with a mandate to promote and protect human rights in Rwanda. NHRC has within its mandate the power to investigate the past and wherever possible to prosecute. Ndahiro also explained that NHRC is independent and has the power to discuss directly with the Government possible breaches of human rights and can also intervene to free people from unlawful detention. The NHRC was established on the basis of the Arusha Peace Agreement. It produces an annual report on the human rights situation in Rwanda. Ndahiro also stated that it was a “culture of impunity” which was responsible for the events of 1994.

122. Ndahiro explained to the delegation about the various departments within NHRC. The Department of Legal Affairs investigates the laws of Rwanda to ascertain whether they comply with human rights standards. The Department of Legal Affairs also advises the Government on these matters. The Department of Education and Sensitisation deals with education in the area of human rights. This department has a large preventative role to play. The Department of Civil and Political Rights investigates its own specialised area. The Department of Economic and Cultural Rights works with specific groups such as genocide survivors, workers, women and children.

123. Ndahiro explained that NHRC were in the process of establishing offices in every region throughout Rwanda. According to Ndahiro this will enable NHRC to respond to the needs of the population in a more effective manner. In accordance with its Operational Guidelines the NHRC had the ability to convene public enquiries when a systematic problem had been identified.

124. LDGL commented that the NHRC publishes a report once a year and published its first report in 2000 on the human rights developments in 1999. According to LDGL there was no information on what the NHRC had done during the year to promote human rights in Rwanda. As a result of this report the NHRC received a lot of criticism. However, in the 2000 report the NHRC demanded that the Government end the DMI’s habit of arresting civilians. The NHRC argued that as the DMI is a military organisation it has no jurisdiction over civilian arrests.

125. LDGL also pointed to some factors, which have hindered the work of NHRC. When the commission was established in 1999, of the seven members only one was a lawyer, Sorine Nyrahabimana. However, she was moved to the Office of the President since October 2000. LDGL claimed that NHRC were only able to recruit a limited number of investigators in 2001.

126. LDGL also questioned the independence of NHRC and believed many of the members and employees of NHRC are Government officials and not human rights activists. LDGL argued that NHRC should intervene in many more cases than it currently does.

127. Mbonigaba explained that there was no real assistance available to journalists who have had problems with the Government. Mbonigaba commented that he had written to NHRC in the past when staff from *Umuseso* newspaper had experienced problems with the Government, but he had never received a reply. However, he also explained that he thought NHRC were attempting to be independent and that their reports were not censored.

128. An informed anonymous source in Kigali claimed that NHRC faced intimidation by the Government. The Government appoints the staff and the NHRC largely do what the Government wants. The source also alleged, that the Chairman of the NHRC was intimidated by the authorities when he visited former President Pasteur Bizimungu.

#### 4. Current human rights situation

129. Ndahiro stated that when one talks about human rights in Rwanda one has to look at it in context. He said that there was a time in Rwanda when basic human rights were seen as a gift and not a right. In the past Rwanda had ratified various conventions regarding human rights, but these conventions had not been respected. Ndahiro commented that the 1994 genocide would not have happened if a culture of respecting human rights had existed in Rwanda. He further commented that the genocide was much more than just killing, it was conceptual racism and discrimination. Finally, Ndahiro explained that Rwanda was not only a country in transition politically, but also a country in transition in mentality towards the concept of human rights.

130. A representative of an international human rights organisation in Kigali found it difficult to see a clear pattern or trend in the recent human rights violations in Rwanda. The source considered the *Gacaca* process (see section 5.2) to be of utmost importance to the human rights developments in Rwanda.

131. A western embassy in Kigali (D) observed significant improvements in the human rights situation in the country with the sole exception of the treatment of Bizimungu and open supporters of his PDR-party. It was observed that the refusal of the authorities to allow Bizimungu to attend mass represented a denial of his most basic rights. According to a western embassy in Kigali (B) this was the sole reason why the US State Department stated in their human rights report of March 2002 that the Human Rights situation had worsened.

A prominent intellectual in Kigali argued that it was very difficult to speak about human rights in Rwanda, as there was not a proper government in place. The current government is not interested in promoting human rights. Many people had been imprisoned without the authorities attempting to verify the facts of the accusations made against them. It was explained that it was very difficult for the political and intellectual opposition to raise these issues with the Government. It was contended that even though there are, in principal, political parties, trade unions and human rights organisations, none of them were allowed to operate freely. It was added that the Government were very talented at presenting the current human rights situation in Rwanda as much better than the reality within Rwanda.

The above mentioned source also believed that the Arusha Agreement, with power sharing principles the very essence of the agreement, as the best chance for a lasting peace in Rwanda. It was argued that a heavy responsibility should be borne by members of the international community who are supporters the current government. The US and the UK were singled out for special criticism in this respect.

132. An informed anonymous source in Kigali considered that there had been improvements in Rwanda in respect of incidents of both torture and disappearances. Thanks to pressure from the international community incidents of torture and disappearances were no longer an issue. It was stated that in the past many were killed, but today disappearances were much less common.

#### **4.1 Citizens ability to seek protection from human rights abusers**

133. According to Charles Ntampaka in Brussels, editor of *Dialogue* and former professor at the Faculty of Law in Kigali, there is no reason why a person should seek protection from human rights abusers in Rwanda as no Government official or authority can provide such protection.

134. According to a Human Rights Watch report, dated April 2000, Government officials, soldiers and political leaders make accusations that are false or at best unsubstantiated and they easily accept similar accusations made by those whom they favour. They are quick to arrest but then often fail to investigate the charges and bring the accused to trial. The prevalence of false accusations and the delay in resolving such charges contributes to the sense of insecurity among ordinary people. Hutu have long been subject to such abuses and now Tutsi survivors of the genocide increasingly suffer from them as well.

135. According to HRW, in the recent past Rwandans have wrongly accused personal or political enemies of having participated in the genocide or of supporting the insurgency; now they may also charge them with favouring a return of the king. While accusations of corruption may be well founded, the pattern of accusation, whether of political leaders or dissident journalists, suggests that political reasons underlie at least some of these charges.<sup>38</sup>

136. Rolin Wavre, Head of Delegation, International Committee of the Red Cross (ICRC), Kigali advised that the organisation have provided numerous training courses to the security forces in Rwanda including the RPA, RNP and the LDF. During 2001 429 RPA officers and 166 police officers received training in International Humanitarian Law. In addition 11,937 members of the LDF attended sessions on the sensitisation to the law of armed conflict. Wavre advised that training is also provided by FACT and an international organisation called International and Organisational Development and Assessment (IODA).

#### **4.2 Human rights situation of ordinary citizens**

137. A former prominent human rights activist in Kigali emphasised that the security and human rights situation of ordinary people of Rwanda had improved considerably since 1996. Only very rarely are ordinary people subject to arbitrary arrests or persecution, and the individual's rights are much more protected than in 1996. The Government is in control of the country and it is powerful, and this fact partly explains why human rights violations have diminished during the last few years. The Government has no reason to, or interest in, persecuting ordinary citizens of Rwanda.

138. According to the same source the most serious human rights problem in Rwanda today is poverty and the enormous gap between the few very rich people and the great mass of extremely poor people. This class of wealthy people is mainly made up of Anglophone Tutsi but also a few Francophone Tutsi that have recently returned to Rwanda. It was explained that the small class of wealthy people are closely affiliated with the inner circle of powerful politicians in the country. A wealthy businessman, who does not support the government, may be at risk of losing his influence and wealth. The source put it this way: "one cannot be rich in Rwanda if one does not support the

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<sup>38</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Where is the Insecurity? - Volume 12, Number 1 (A), April 2000.

Government” and added that the central Government of Rwanda is strong, it has military power and it is in total control of the administration.

139. A western embassy in Kigali (A) claimed that there is a lot of “dirty business” in Rwanda today. As a result of this the embassy believed that many of those who flee Rwanda may be corrupt, but there is also a good chance that many of these people would also have a reason to fear for their lives. The embassy made the point that the Government are often quick to make the accusation that a person may have fled Rwanda because he or she was corrupt.

140. According to an informed expatriate in Kigali many genocide survivors were disillusioned to see those who have returned from Uganda since 1994 take control of the political scene and build themselves fine houses all on the back of the genocide. The source commented that for this reason some disillusioned survivors may now seek to leave the country.

141. The above mentioned source feared that genocide could happen again in the future. There is a big difference between city people and the Hutu and Tutsi “living on the hills”. As an example of this the source spoke of a woman who had been raped in 1994 but did not speak at the village trial as she had been threatened. Others present also remained silent. The source explained that because the woman was a genocide widow she needed the support of the population and could not say that “this man raped me or that this person killed my husband”. The woman preferred to keep quiet and in doing so she ensured the support of local society but at the same time she must accept the past.

142. Despite his strong criticism of the lack of democracy in Rwanda and incidents of harassment against individuals who do not share the RPF ideology an informed expatriate source in Kigali commented that “in general citizens of Rwanda do not face problems from the authorities”. He added that “many will want to leave for economic reasons, even people with a diploma will want to leave if they can not work”.

143. A representative of a human rights organisation in Kigali considered that ordinary people who do not speak out openly and who do not express any criticism against the Government are not at risk of any form of persecution by the Government. However, the source emphasised that a “culture of silence” exists in Rwanda and considered this to be an expression of a “culture of fear”. The organisation of the representative has noted the presence of this phenomenon throughout the country by consulting people on grass root level. A western embassy in Kigali (A) confirmed the existence of a “culture of fear” and that now and then there are people in Rwanda who would reasonably fear for their lives. However, the embassy argued that ordinary members of society who do not voice their opinions against the Government would not have a fear of persecution in Rwanda today.

#### **4.3 Persons at risk of persecution**

According to Reyntjens the Rwandan Government in general does not tolerate criticism. Those Rwandans who find themselves at risk of persecution will try to leave the country, i.e. political activist and persons who have tried to establish independent political parties. Reyntjens emphasised that such persons could be at risk of being killed or of disappearing. Others might end up in prison because of false accusations.

144. Reyntjens identified the following categories of individuals as being at particular risk of persecution by the authorities:

- Politicians.
- Members of the political opposition.
- Members of civil society.
- Journalists and members of the media.

145. Reyntjens explained that members of the political opposition are at risk of serious forms of human rights abuses in Rwanda. Even members of the political opposition, including the monarchists (see section 4.7) that are staying in neighbouring countries are at risk of being abducted, killed or to disappear. Also members of civil society are at risk of persecution and some have left the country, including members of various Rwandan NGOs. Reyntjens also emphasised that the proposed press law in Rwanda provides for death penalty.

146. According to Reyntjens it is not the Hutu population in Rwanda that make up a problem for president Kagame. He pointed to the developments since January 2000 (when the former speaker of the National Assembly, Joseph Sebarenzi was replaced and after which he fled the country) where members of the Tutsi population are having trouble in Rwanda. Reyntjens emphasised that today the majority of Rwandan refugees in Belgium is Tutsi rather than Hutu. A number of the Tutsi refugees are prominent political leaders and journalists, but also ordinary students and other members of the Tutsi population in Rwanda are living in exile. According to Reyntjens President Kagame needs the support of the Hutu population in Rwanda and he would probably offer the exiled Hutu population an amnesty.

147. Reyntjens explained that the Tutsi population in Rwanda is split because many Tutsi are frustrated with the RPF and the Government, which Reyntjens described as “corrupt and monolithic”. He added that Rwanda is a very poor country, 12% of the country’s Gross National Product (GNP) originates in the DRC. Some Tutsi have become very rich because of the war in the DRC and there is an ongoing fight between various Tutsi groups concerning the meagre resources within Rwanda.

148. Reyntjens added that as soon as a person is considered to be a supporter of the opposition or considered to be a threat to the authorities he or she would soon have a problem. It is, however, not “the man in the street”, that is at risk of persecution. Ordinary citizens are not at risk and massive violence does not occur in Rwanda in general. However, in the north-west the Government has threatened the population to choose sides in the conflict between the Hutu rebels and the Rwandan Government.

149. A western embassy in Kigali (D) commented that Reyntjens had a negative view of the situation in Rwanda. Whilst accepting the value of his opinions the source believed that these should be taken in context. In particular it was noted that Reyntjens had been denied entry to Rwanda since approximately 1997. This followed his assertion that the RPF were involved in the shooting down of President Habyarimana’s plane. As such the source pointed out that the main contacts of Reyntjens may be based in Belgium where there are a sizeable proportion of the Governments opponents. However, the source defended Reyntjens against those who claim he is pro-Hutu observing that he was equally critical of the Government of Habyarimana.

150. Ntampaka listed the following categories of individuals being particularly at risk of persecution by the Government and its security forces:

- Persons with a prominent, strong, political or economic base in Rwanda. Generally the Government fears such persons as they are often beyond Government control.
- Intellectuals, including university students who speak out openly. Such persons are at risk irrespectively of Hutu or Tutsi origin.
- Members of the MDR-PARMAHUTU, including former members and persons affiliated with the movement.
- Supporters and members of any monarchist movement.
- Members of former president Bizimungu's party PDR, including persons that are affiliated with the PDR or Bizimungu himself.
- Journalists, editors and other members of the media.

151. Ntampaka stated that it is difficult to generalise about who is at risk of persecution in Rwanda, but he emphasised that victims of human rights abuses in Rwanda are individuals rather than collective groups such as members of a certain political party, group or organisation. He also emphasised that the Government of Rwanda does not tolerate an opposition. Opposition is considered as an enemy and even the Rwandan language Kinyarwanda does not have a word for "opposition". Generally the ordinary people in Rwanda fear the RPF-controlled Government, which controls the press, the security apparatus, the political parties and "everything else". This is why individuals rather than opposition groups are at risk of persecution. Those who write or speak out against the Government are not the political parties in opposition or civil society organisations but individuals. Such persons are at risk of serious persecution, even disappearance or killings.

152. A western embassy in Kigali (C) confirmed that those most at risk of persecution from the authorities were prominent opposition politicians and their financiers and prominent media people who are overly critical of the Government. The source emphasised the term "prominent" and commented that an ordinary man or woman would not be at risk. He added that those who are "sufficiently prominent" are not at risk of being killed but only of harassment by the authorities.

153. The source did not accept that any dissent of the Government would put an individual at risk. In qualifying this assessment he explained that a Rwandan would not normally "just express an opinion". In the opinion of the embassy anyone bold enough to publicly express an opinion is likely to be an activist.

154. LDGL was of the opinion that there are three sections of Rwandan society, which are at risk of persecution from the Government. These are, firstly, human rights activists who criticise the Government, secondly, journalists who criticise the Government and finally, people who are said to be political opponents of the Government.

155. With the advent of the *Gacaca* process a western embassy in Kigali (D) identified survivors of the genocide as a group at risk. Some survivors now feared for their lives as under the process many murderers may walk free. Others involved in the genocide who have never been imprisoned fear being identified through the *Gacaca* process. These people could pose a threat to the lives of those who witnessed their crimes. In qualifying this view the source noted the murder on 12<sup>th</sup> March 2002 of a local representative of the genocide survivors organisation Ibuka in the Kicukiro District



of Kigali. The source had also been informed of two recent instances of poisoning which was described as “a common practice”.

156. A western embassy in Kigali (C) commented that those suspected of genocide risked arrest. The source expressed the view that the majority of suspects within Rwanda had been arrested. In relation to such individuals outside the country the source observed their unwillingness to return.

157. An informed source in Kigali told the delegation that in general persons who do not behave politically in a manner that is in accordance with the wishes of the Government are at risk of being dismissed from their jobs, abducted or even killed. The source added that there is impunity for those who are behind such acts.

158. A western embassy in Kigali (A) stated that arrest without due process is common in Rwanda today. As a means of illustration of this point the embassy highlighted the case of Florien Ntezimana, a founding member of the Rwandan human rights organisation Association Modeste et Innocent (AMI). The embassy believed that Ntezimana was lucky because he was a well-known figure.

159. Kolini expressed the view that there were no specific groups at risk in Rwanda. He observed that the registered political parties are able to meet together freely.

160. Kolini commented that some individuals might encounter problems as a consequence of their personal understanding or beliefs. However, he considered the situation was no different to any other part of the world and you can never satisfy everyone. He expressed the view that where someone reports a problem his or her case should be examined individually.

161. Ndahiro insisted that there were no groups in particular which were at risk of human right abuses in Rwanda today. When asked by the delegation about the risks to journalists the Ndahiro stated that he did not think that there were any journalists at risk in Rwanda today. However, it was stated that illegal and arbitrary detentions were a problem in Rwanda today. Moreover, Ndahiro also stated that NHRC criticises the authorities when they do not uphold human rights standards. He highlighted of NHRC’s survey into the conditions of *cachots* in 2001 where the NHRC stated that condition and treatment of prisoners being held in *cachots* could be greatly improved if the police had more support and staff. However, Ndahiro also pointed to the setting up of a human rights department within the police as more evidence of progress in the field of human rights. It was also explained that NHRC co-operates with FACT in providing the police with training in the prevention of torture.

#### **4.4 The proposed Press Law and freedom of speech**

##### **The Law on the Press in Rwanda**

162. According to Ndahiro parts of the proposed Law on the Press in Rwanda need to be changed to bring it into line with common human rights standards.

163. A western embassy in Kigali (D) commented that the proposed new press law was widely criticised for several reasons. In response to this President Kagame refused to sign the law at the end of 2001 after it had been passed by the National Assembly. The source explained that the Kagame’s reason for not doing so was because the draft law said that journalists could receive the death penalty for inciting genocide. Kagame commented that Rwanda does not need a law

specifically for journalists but should instead have an all-encompassing genocide law. Kagame therefore agreed to review articles 88 – 90, these are to be re-drafted. As a consequence of this the existing press law dating from 1991 remains in place, this leaves the question of what amounts to incitement of racial hatred open to interpretation.

164. LDGL confirmed that National Assembly passed the Law on the Press in late 2001 but it has not been promulgated yet.

165. LDGL has denounced the proposed law and said it is particularly concerned with a number of areas within the law. Article 89 and 96 were highlighted as areas of particular concern.

166. Article 89 of the Law on the Press states:

167. “Whoever, through the press, attempts to incite part of the Rwandan population to commit genocide with a resulting effect, shall incur a death penalty.”

168. Article 96 of the Law on the Press states:

169. “Shall be prosecuted, in the following order, as perpetrators for offences committed through the press:

170. The Publishing Director or Editor;

171. In their absence, the Managing editor;

172. In his absence, the authors;

173. In their absence, the printers;

174. In their absence, vendors, distributors or managers of poster display firms.

175. When known are those to be blamed first and to be prosecuted as perpetrators, persons referred to under 2 to 5 above shall be prosecuted as accomplices when found as in those cases shown in Article 91 of the Penal Code.”

176. LDGL saw this as an unlawful approach in holding people responsible for the contents of an article they may never even have seen, never mind read. LDGL also believed that the language of the Law on the Press was unhelpful as it was very hypothetical and not very precise. Moreover, LDGL’s concerns with regard to Article 89 lie with the question of who would decide whether an article incites genocide.

177. According to LDGL President Kagame has since said that he is against oppressions and the Law on the Press is currently being held at pre-promulgation stage. LDGL welcomed this and said it hoped the Government would be more open towards freedom of expression.

### **Freedom of speech**

178. LDGL explained that the freedom of the press in Rwanda is seriously restricted. It was explained that “freedom of speech is the major problem facing Rwandan society today”. LDGL argued that the genocide is being used as a tool to silence any serious debate that may involve criticism of the Government. LDGL explained that the Government use the example of the radio station RTLMC (who were instrumental in providing genocide propaganda in 1994) and

consequently private media must be kept under control. Yet, the Government are taking this control to extremes and stifling political debate.

179. A western embassy in Kigali (D) informed the delegation that there are a number of concerns regarding press freedom. It is difficult for journalists to work freely as there are many issues that the Government consider to be sensitive including security, implications of Rwanda's presence in the DRC and political freedom as well as the ethnic issue. Most newspapers apply self-censorship. The source briefly commented on the following past and present publications, none publish more frequently than twice a week:

180. *Umuseso*: Rwanda's only truly independent paper in circulation at the present time and the one that goes furthest in its criticism of the Government. The publication was ethnically heterogeneous as both Hutu and Tutsi were behind it. *Umuseso* is in Kinyarwanda and is Rwanda's main paper but the circulation is relatively small numbering a few thousand per issue.

- *Rwanda Newslines*: This English publication was critical on the Government and has ceased publication. The editor now has political asylum in Holland whilst a second leading individual involved in the publication is in South Africa.
- *New Times*: Published twice a week in English and pro government.
- *The Rwanda Herald*: Splinter of Rwanda Newslines, this publication also contained controversial articles and ceased publication in the autumn of 2001. The source was unsure of the reason for this.
- *Ukuri*: This publication is critical of the Government but its editor is a member of the RPF so criticism is controlled. A embassy in Kigali (D) commented that its articles can nevertheless be interesting "if only to demonstrate that the RPF are not one monolithic block."
- *Le Partisan*: This publication ceased publication in January 2002 following a controversial article that led its leading journalist to flee the country after being briefly detained by the authorities. The controversy revolved around an interview with the Secretary-General of the Mouvement Démocratique Républicain (MDR) who was also detained and remains imprisoned. The source explained that the article accused the President and others within the RPF of creating division within the MDR. The article alleged that the RPF infiltrated the MDR and that this resulted in the creation of two wings within the party, one pro RPF and the other independent. The article went on to suggest that this was designed to weaken the MDR and accused the president of blocking reconciliation between the two wings. The source commented that the article merely repeated and put into print what was already a commonly held view within the country.

181. Mbonigaba also gave the names of two Government owned newspapers, namely *Imvaho*, a weekly newspaper published in Kinyarwanda and *La Nouvelle Relève*, published bimonthly in French. Mbonigaba added that two monthly newspapers, namely *Gasabo* and *Ubumve* are more or less independent of the Government.

182. A former prominent human rights activist in Kigali stated that no Rwandan newspaper could be considered as fully independent of the Government. Even *Umuseso* is being manipulated.

183. According to LDGL there is now no truly independent media in Rwanda. It was asserted that there are some that have tried but they are not strong. In an attempt to provide an independent media eight editors of various newspapers have joined together to form an association of independent editors called Rwanda Independent Media Group (RIMEG). However, according to LDGL they do not have the resources or the means to publish their work.

184. According to Ntampaka all Rwandan newspapers are “in the hands of the Government” with the exception of two, *Le Partisan* and *Kinyamateka*. Both are not daily newspapers and they are not published regularly. Ntampaka declined that the newspaper *Umuseso* was independent of the Government. However, *Umuseso* can and does express criticism against the Government but only to a certain degree, as its editor and journalists are well aware of the limits of freedom of expression.

185. Ntampaka explained that the Rwandan press is subject to something like a “Soviet-style”, centralised system of control. There is no independent reporting about the Government’s policies and decisions. Ntampaka emphasised that the opinion of the political opposition in Rwanda is not expressed in the press. Not even in the two “independent” newspapers *Le partisan* or *Kinyamateka* does the political opposition have an opportunity to express their views.

186. Mbonigaba explained that *Umuseso* was founded in July 2000 and was closely affiliated with *Rwandan Newslines*, which was founded in the beginning of 1999, but ceased to exist in May 2001. *Umuseso* is published weekly and as well as *Rwanda Newslines* is an independent newspaper.

187. When *Umuseso* began publishing it did not face any problems with the Rwandan Government or its security forces, but things deteriorated in December 2000 when *Rwanda Newslines* published an article about the presence and conditions of Rwandan soldiers in the DRC. This article told the story of how the soldiers were treated, how they died and were not buried properly and the bad treatment of wounded soldiers etc. The Chief of the RPA ordered the arrest of the editors of *Rwanda Newslines* and they were also intimidated. According to Mbonigaba, *Rwanda Newslines* and its editors had evidence that leading army officers of the RPA were exploiting and looting resources in the DRC for their own benefit. *Rwanda Newslines* also stated that it had evidence to prove that its story was true. However, soon after all advertisers abstained from advertising in *Rwanda Newslines* and *Umuseso* as it was said that the two papers were against the Government. Since then *Rwanda Newslines* and *Umuseso* have had serious economic difficulties and suspension of publications.

188. Things deteriorated even more in May 2001 when Shyaka Kanuma, a journalist from *Umuseso* and Mbonigaba were preparing an interview with ex-president Pasteur Bizimungu as he had founded the PDR, a new party independent of the Government. Before they had the opportunity to interview Bizimungu the Rwandan security police forced the two *Umuseso* journalists away from the scene and arrested them. Just before this happened the British Broadcasting Corporation (BBC) and Voice of America had already interviewed Bizimungu and that same evening the recorded tapes of those interviews were confiscated by the security police. Bizimungu’s own security guards had notified the police about the planned interviews, and Kanuma and Mbonigaba were detained for about ten hours by the Central Intelligence Department (CID) and were released by midnight May 30. However, they were both ordered to report at the headquarters of the CID every day for the next week.

189. Mbonigaba informed the delegation that following these events three founding members of the PDR left the party and they publicly declared on both radio and television that they considered the ideology of PDR for wrong and that Kanuma and Mbonigaba of *Umuseso* were members of

Bizimungu's party, which they were not. At this time, John Mugabe, editor of *Rwanda Newslines* went to Holland to participate in an international conference on corruption organised by the Dutch Government. Because of these events and because his wife in Rwanda was threatened several times John Mugabe did not dare to return to Rwanda from Holland, and he applied for and was soon granted asylum there. Since then both *Umuseso* and *Rwanda Newslines* have been denounced by the Rwandan Government as "anti-government" newspapers. Soon after, at the end of June 2001, Kanuma also left Rwanda. According to Mbonigaba he got out of the country because he left some days before a planned departure and in this way he escaped being held back in Kigali airport.

190. LDGL believed that the problems that John Mugabe and other staff at *Umuseso* and *Newslines* had encountered were due to the fact that they were the only truly independent newspapers in Rwanda. Again LDGL claimed that any newspaper that speaks up against the Government risks intimidation, harassment and persecution.

191. A western embassy in Kigali (A) also believed that the problems faced by John Mugabe highlighted the existence of an "atmosphere of fear" in Rwanda.

192. Mbonigaba explained that since May 2001 the *Rwanda Newslines* has been abandoned and *Umuseso* survives with great difficulties. Mbonigaba gave other examples of harassment and intimidation of *Umuseso*'s staff. Furthermore, an informed anonymous source in Kigali stated that the editor of *Umuseso* was being intimidated "on a daily basis".

193. Mbonigaba also explained that at the end of December 2001 a taxi-driver was shot dead in the open in Kigali. The taxi-driver was a founding member of Bizimungu's PDR-party. *Umuseso* reported the incident and conducted an interview with the Secretary-General of PDR, Charles Ntakirutinka, who also was one of the five signatories of PDR. Ntakirutinka declared that the killing of the taxi-driver was politically motivated. Soon after *Umuseso* and *Le Partisan* published an article about the tensions between the two factions of the MDR<sup>39</sup>, the Ministry of Information and Local Administration denounced *Umuseso* and *Le Partisan* for inciting genocide in Rwanda. The Ministry of Information and Local Administration held a press conference and declared that *Umuseso* and *Le Partisan* were anti-government newspapers who were trying to create ethnic tensions between Rwandans, and the Ministry had this broadcasted on radio during the next three days. This was also confirmed by LDGL.

194. Mbonigaba admitted that the Rwandan Government, more than anything else, fears a new genocide in Rwanda, but he also stated that this fear is being exploited to suppress and intimidate the political opposition and the independent press in Rwanda. However, Nsenga explained that it is illegal in Rwanda to publicly express ethnic arguments or to use "ethnic weapons".

195. In spite of General Kagame's statement in late 1999 that journalists should be daring when they worked for the interest of the country editors and journalist have been harassed and arrested by the authorities. HRW has reported about the journal *Imboni*<sup>40</sup> that was removed from the market in

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<sup>39</sup> The MDR is split into two factions of whom one supports the RPF government while the other has declared itself independent of RPF. *Le Partisan* had published an interview with Amiel Nkuliza, who is the leader of the independent faction of MDR.

<sup>40</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Departure of Assembly Speaker Sebarenzi/Silencing the Press, Volume 12, Number 1 (A), April 2000.

February 2000 when its editor Deo Mushaidi published a special issue of the journal devoted to the departure from Rwanda of Joseph Kabuye Sebarenzi, speaker of the National Assembly. Mushaidi wrote “Before, it was Hutu leaders who fled and it was said that they were fleeing the Tutsi government. And today why do the Tutsi flee their fellows? They say that Sebarenzi helped some soldiers to flee. Who then is facilitating the flight of the civilians? After Sebarenzi’s own departure, has the number of those fleeing diminished? And, what are they fleeing? This is the problem and it concerns us all.”<sup>41</sup>

196. According to HRW Mushaida and another journalist, Jason Muhayimana, were advised by well-informed friends to leave the country. Soon after Mushaida was removed as president of the Rwandan Journalist Association (RJA). Both Mushaida and Mahayimana are Tutsi. They went into exile in the beginning of April 2000. Soon after the Rwandan authorities reportedly issued warrants for their arrest on charges of “embezzlement”.<sup>42</sup> At the same time another journalist of *Imboni* was afraid of returning from a conference in Nairobi, Kenya.

197. According to the BBC the Rwanda News Agency (RNA) reported on 5 April 2000 that the original owner and editor of *Imboni* and more recently, the Rwandan ambassador to Uganda, was prevented from taking his place as a newly named member of the national assembly. The report stated that this was while the authorities looked into his role in the publication of the special issue on Sebarenzi’s departure. In explaining this decision, the forum for political parties talked of the “slanderous and obscene statements that appeared in *Imboni* news magazine, smearing government and condoning the practice of defilement and rape...”<sup>43</sup>

198. A prominent intellectual in Kigali confirmed that journalists who are critical towards the Government are intimidated and at risk of being imprisoned without prior trial. However if a critical journalist has well established relations with persons close to the Government he or she may only risk imprisonment for a relatively short time (a day or more). On the other hand the source explained that a journalist without such connections is at risk of a lengthy imprisonment (from some days to weeks and even months or years).

199. Mbonigaba claimed that the threats to the freedom of journalists and the press are being carried out by the Criminal Investigation Department of the Police. Mbonigaba described a number of methods used by the authorities to intimidate journalists. According to Mbonigaba, the Criminal Investigation Department have in the past bribed people who work at *Umuseso* in order to receive information on what articles are about to be published. Mbonigaba also described an incident when someone approached his wife and informed her that she was going to become a widow. This incident also coincided with threatening phone calls. Mbonigaba explained that threats are now accumulating and there are risks being an independent journalist in Rwanda today. Mbonigaba added that journalists were not subjected to torture in Rwanda.

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<sup>41</sup> Deo Mushaidi, “Ou Nous Conduisent-ils le renversement et ‘Exil de Sebarenza?’” - *Imboni*, Special Issue, February 2000, pp. 2-3.

<sup>42</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Departure of Assembly Speaker Sebarenzi/Silencing the Press, Volume 12, Number 1 (A), April 2000.

<sup>43</sup> BBC, 5 April 2000.

200. A western observer in Kigali stated that much of the genuinely independent and impartial press has already left Rwanda and those who are left are those who may have an agenda. The source listed *Umuseso*, *Newsline* and *Le Partisan* as newspapers that sometimes do things that bring them to the adverse attention of the Government. He also explained that many journalists fear the radical elements of society and the military rather than the political executive.

201. Mbonigaba claimed that the Government heavily influences RJA. Therefore, according to him RJA is unwilling to help *Umuseso* when they are in conflict with the Government.

#### **4.5 Freedom of movement within Rwanda (National Identity Cards)**

202. According to Nsenga the Rwandan Government began issuing new identity cards in 1995 or 1996. The new cards do not show any information about a person's ethnic origin or affiliation like the previous identity cards did. He added that any Rwandan citizen was able to move freely within the country, and live and stay wherever he or she may wish. Since 1994 there has been no restrictions in the people's movements within Rwanda, but during the rebel attacks in 1996 and 1997 the authorities established a number of roadblocks in various parts of the country. Nsenga emphasised that these roadblocks only existed as security precautions and they were not meant to limit the general freedom of movement of civilians within Rwanda. It was added that in connection with elections and the registration of voters one's present domicile is the determining factor and not the geographical origin of a person.

203. A former prominent human rights activist in Kigali stated that there are no restrictions of movement of people inside Rwanda.

204. A western embassy in Kigali (C) confirmed that the population enjoyed freedom of movement throughout the country. He advised that the majority of checkpoints throughout the country were either the Revenue Authority or the traffic police.

An anonymous Government official informed the delegation that nowhere in Rwanda does the Government limit the citizen's freedom of movement. There are no checkpoints in the country, not even in the north-west where incursions from the DRC took place last year.

#### **4.6 Persons affiliated with former Habiyarimana-government**

205. A prominent intellectual in Kigali commented that there would be problems for anyone who was accused of being associated with the former Habiyarimana government or being involved with *Interahamwe*. It was commented that it is often the case that unfounded allegations are made against people to intimidate them. People who have got personal problems with other people might make malicious allegations. It was also claimed that local networks existed in Rwandan society, which facilitated the spreading of false allegations against people. Many of these "secret societies" are made up of survivors of the genocide. The source indicated that if rumours of being associated with the previous regime were made against a person, the individual concerned would have no option but to leave for another part of Rwanda. However, in some instances this may not be enough as the rumours may follow a person.

206. The same source gave the example of a man who had been imprisoned for four years. After being released without charge he did not wish to return to his home in Butare. He moved to Kigali where he lived for two years, before some people from Butare came to Kigali and began

denouncing this man again. This man was subsequently arrested again in February 2002. It was also stated that these “secret societies” form part of dangerous networks throughout the country. The victims of this intimidation do not have the option of seeking protection from the authorities.

207. A representative of an international human rights organisation in Kigali commented that some, but only few, high profile military persons of the ex-FAR forces have returned from exile to Rwanda and have been reintegrated into society. The source was not in a position to comment whether ordinary persons affiliated with the former regime would face any problems in Rwanda today. However it was emphasised that the situation for individuals will depend on the *Gacaca* courts praxis, and it will certainly vary from place to place in Rwanda. The risk that ordinary people could be victims of false allegations does exist.

208. According to a representative of a human rights organisation a person accused of affiliation with the former regime may be at risk of persecution from individual members of the security forces. The source explained that the Rwandan Government does not sanction such arrests and it is often individual RPA- or DMI-members that are behind these arrests. Those at risk include civil servants at a lower level. Also former ex-FAR soldiers, journalists and former politicians that are accused by private persons of having cooperated with the Habiyarimana-regime are at risk. It is very often the “secret societies” (as referred to in the opening paragraph of this section) that are putting forward false accusations against individuals. Even persons that already have been acquitted by a court are at risk of being re-arrested because of false accusations. The source emphasised that it is very often people with affiliation to the former regime that are at risk, and these person can include former judges and business people. However the situation differs considerably from region to region.

209. A western embassy in Kigali (A) made the point that people linked to the former Habiyarimana government would not have a fear of persecution from the present Rwandan Government.

210. According to Mbonigaba, being associated with the former Habiyarimana regime would not in itself give rise to a fear of persecution by the Government. Mbonigaba further explained that in the immediate aftermath of the genocide there were some retribution massacres against those associated with the Habiyarimana regime, but that this was not a problem now.

#### **4.7 Political opponents and members of opposition parties**

211. In accordance with the Arusha Accords of 1992-93 political parties exist in Rwanda, but according to HRW the Government limited their importance by such measures as prohibiting public meetings.<sup>44</sup>

212. In discussing the threat to political opponents of the Government a western embassy in Kigali (D) observed at the outset that it is very difficult to draw the line between those who are true opponents and those who are not. Accusations of involvement in the genocide in the case of Hutu and corruption in the case of Tutsi are commonly used. The source commented that where Government opponents could be at risk, others claiming asylum may in fact be guilty and fleeing the country for this reason. It was suggested that the likelihood was that the proportion of those who

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<sup>44</sup> Human Rights Watch, World Report 2001, Rwanda, December 2000.



claimed asylum on the basis of their political opposition that would have a genuine fear of persecution would be relatively low. It was added that whilst political opponents could reasonably be expected to have a detailed knowledge of the political system in Rwanda it is likely that a proportion of those without a genuine fear of persecution could still have a good understanding.

213. The above mentioned source expressed the view that the main aim of the Government was not to eliminate its opponents but to get them out of the country where they would be a far lesser threat. It was explained that the Government maintains files on many people and will use this information to make a case against individuals. The source also considered it unlikely that family members of political opponents would be pinpointed for harassment by the authorities unless they too were perceived to pose a particular threat.

214. A western embassy in Kigali (A) stated that political opposition is not tolerated in Rwanda. According to the embassy those who openly oppose the Government will be threatened and harassed. It is common for these political opponents to be constantly observed and intimidated by the secret police, who may take up a permanent residence outside the houses of political opponents. It is also common for these people to receive threatening telephone calls and threats on the street. The embassy highlighted the example of Pasteur Bizimungu after he formed his PDR-party in May 2001 as evidence of this.<sup>45</sup>

215. The above mentioned embassy also commented that disappearance is not a problem today. In 1997-98 disappearance was a problem, but the “intimidation factor” is now so great that there is no need to kill people.

216. A western embassy in Kigali (C) accepted that there was political repression in Rwanda but this did not amount to “want and random violence against the opposition”, i.e. uncontrolled and unlimited violence against the opposition.

Reyntjens explained that it is not the various political parties in Rwanda that are at risk of harassment and persecution but the individual opposition member, including members of the RPF. A person may be at risk of persecution irrespective of which party he or she is affiliated with. What matters is whether a person is considered to support the opposition against the present Government. President Kagame does not want an active opposition within Rwanda and the Government infiltrates any group or organisation that it considers a threat. Reyntjens added that amongst others the Government has infiltrated such organisations as Ibuka, RJA, cooperative movements and newspapers.

217. Ntampaka observed that the Government is controlling the political parties in Rwanda, and they can only operate within the limits of the Government’s forum. All political parties in Rwanda are included in this forum, but all political decisions are taken by the RPF. In spite of the Arusha Accords and the constitution, which legalises political activity in Rwanda the opposition to RPF does not have the possibility of engaging in many political activities, such as holding meetings. Ntampaka added that there are no contact between the offices of the political parties and the people.

218. A former prominent human rights activist contended that ordinary people in Rwanda generally do not discuss politics and rarely even show an interest in such matters. Rwandan political

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<sup>45</sup> See the following section for a more in depth reference to PDR.

parties do not have a register for members as they do not have members as such. These parties do not operate as parties normally would do. They have no political activities and they do not issue membership cards and there is no registration of members. Neither do these parties hold party-meetings and they do not have any official offices. Only the RPF has an official office.

219. Officially the Rwandan Government declares that it supports political freedom and freedom of expression in the country, but according to Ntampaka many politicians, including members of the Government, have fled Rwanda during the last couple of years. He saw this fact as a clear indication that something has gone wrong in the country. During his latest visit to Kigali in January 2002 Ntampaka noticed a conspicuous nervousness among members of the Government in Kigali.

220. Since the beginning of 2000 the power base in Rwanda has been steadily shrinking as the RPF and the national assembly has eliminated a number of prominent politicians suspected not to be in agreement with the RPF-ideology.

221. According to a prominent intellectual in Kigali the ethnic problem is still fundamental in Rwanda. He dismissed the Government's view that there is no ethnic problem in Rwanda today and also criticised the priority given to "national unity" at the expense of debate on ethnic issues. The source accepted the need for national unity, but believes it is being used as a tool by the Government to prevent constructive debate on the ethnic issue. Instead, anyone who raises the ethnic question is labelled a troublemaker and immediately placed at risk of persecution by the Government. The source pointed to the recent treatment of Pasteur Bizimungu.

222. On the other hand, Nsenga commented that "the ethnic issue is a major concern of the Government". He also claimed that the ethnic issue was not a problem today. Nsenga explained that Bizimungu's PDR party had used language that endangered a rise in ethnic tensions. Nsenga also stated that the PDR had not been established in accordance with the Arusha Agreement on the principles of transitional government (see the following section).

223. Yet, LDGL explained that political figures who openly oppose the Government will also have a fear of persecution in Rwanda. By means of illustrating this point LDGL pointed to the case of Bizimungu. According to LDGL, the Government claimed the PDR's use of the term *ubuyanja* (meaning renewal or rebirth of energy) endangered a rise in ethnic tensions. LDGL stated it had discussed the PDR message with many people and there is no evidence that it is at risk of inflaming ethnic tensions. LDGL also stated that members and those "supposed" to be associated with PDR have been the subject of repression from the Government.

224. According to a prominent intellectual in Kigali the only party that had offered a genuine opposition to the Government was the MDR. However, he pointed to the dismissal of the first two Prime Ministers of the Transitional National Government (TNG) as evidence of the MDR's opposition being silenced. The source further contended that there are presently no party's within Rwanda, which provide an effective opposition to the RPF. Consequently, the RPF's views are totally accepted by all the political parties.

225. A former prominent human rights activist explained that no one, not a businessperson or a politician or any other "prominent" person, is ready to express his or her criticism towards the Government. People who do so and are at the same time employed by the Government will be dismissed, even if they are members of the national assembly. The person in question will simply be asked by the leaders of his own party to leave his position in the assembly. This is being done on

the basis of a firm request of the Government. This explains why even persons in prominent political or social positions in Rwanda have chosen to leave the country. The sole fact that a person holds a prominent position in Rwandan economic or political life – even within government circles – does not guarantee such a person security against persecution and intimidation.

226. HRW has reported that the two leaders, Bonaventure Ubalijoro and Sylvestre Kamali, of the largest opposition party MDR were released from prison without trial and without further clarification of the reasons for his arrest in April 2000. Ubalijoro had been detained for more than a year and Kamali had been detained since 1994.<sup>46</sup> HRW added that Ubalijoro's arrest appears to have been motivated more by politics than by concern for justice, and that detention for unspecified reasons has hit ordinary citizens as well as more prominent political leaders.<sup>47</sup>

227. According to Nsenga there are no political prisoners in Rwanda and disappearances for political reasons does not occur. He stated that some of those Rwandans that have chosen exile may certainly not return to Rwanda as they have criminal charges against them. These charges are mostly of economic character. As an example of such cases Nsenga referred to a case where the head of the RJA went into exile. He was charged for economic mismanagement and corruption.

228. However, an informed expatriate in Kigali spoke of intimidation against government opponents being common. Where these are Hutu it is common to accuse them of involvement in the genocide whilst Tutsi opponents are likely to be accused of economic crimes.

229. A former prominent human rights activist in Kigali was not optimistic about the planned elections in 2003. The source explained that the coming election most likely will not be democratic and free as the RPF is dominating all other parties and it was emphasised that no real political opposition exists in Rwanda. Political issues are not being discussed whether among ordinary people or politicians. Representatives of the real opposition have left the country and if they were to return they would only be able to function as spokesmen of the RPF Government. Those who do not accept these conditions will be in real danger of human rights abuses. It was added that many former independent politicians now have changed and turned to the Government. No independent political party is to be found in Rwanda today.

230. An informed expatriate in Kigali stated that former President Bizimungu is liked by the population and could pose a threat to the RPF. The source also mentioned the killing of the private taxi-driver Gratien Munyarubuga in December 2001 and explained it was carried out in suspicious circumstances. Munyarubuga was a signatory of the declaration from the PDR-party. The Government set out to break the party from the outset. It was claimed that even though the authorities cannot kill Bizimungu, as the international community protects him, the other signatories are at risk. The source surmised that the Government will not tolerate opposition parties and the other parties in the Government have no power.

231. The same source commented that any asylum seeker in Europe in fear of political persecution in Rwanda should know exactly how and why they find themselves in such a position. The source

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<sup>46</sup> Human Rights Watch, World Report 2001, Rwanda, December 2000.

<sup>47</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Arbitrary Detentions, Torture and Ill-treatment, Detention for Unspecified Reasons, Volume 12, Number 1 (A), April 2000.

considered it reasonable that they should have an in depth knowledge of the Rwandan political system, the current Governments policies and processes, an understanding of the current tensions within the country and a knowledge of the inner circle who effectively run the country.

232. Mbonigaba explained that Sebarenzi, the former Speaker of the National Assembly, is a popular figure and he believed that there is some support inside Rwanda for Sebarenzi's ARENA party (see below), but that these supporters are afraid to speak out.

A former prominent human rights activist in Kigali agreed that Sebarenzi is a popular figure in Rwanda and considered him to be a serious politician. The source added that former President Bizimungu is also a popular politician and that he should be seen as a serious threat to President Kagame. Bizimungu has a thorough knowledge about the Government and knows very well how it reacts under various circumstances.

233. Mbonigaba explained that political debate is not allowed and that people have been arrested for expressing their views. Moreover, those in particular who are not allowed to speak up against the Government are the politicians. According to Mbonigaba, it is those people who have the ability to change people's minds, such as politicians and journalists who have the greatest restrictions placed upon them. As a means of illustrating this the source described the current situation of former President Pasteur Bizimungu who is not allowed to attend church as he would have access to the people there and may change their minds concerning political issues.

234. LDGL believed that anyone who questions the Government is at risk of harassment and persecution. They highlight the case of thirty-six people who were imprisoned because they did not respect the new Rwandan flag. They also point to the case of a number of students who were arrested for singing the old National Anthem.

### **Parti Démocratique pour le Renouveau-UBUYANJA (PDR)**

235. Nsenga informed the delegation that it is illegal to form new political parties in Rwanda and that it is illegal to publicly exploit the "ethnic weapon".

236. According to an informed anonymous source in Kigali the newly formed party, Parti Démocratique pour le Renouveau-UBUYANJA (PDR) considers *génocidaires* must be punished but so should those who committed abuses as the RPF and RPA took control of the country. The same source commented that this is one of the main reasons why the RPF did not want the PDR to establish itself as a political party.

237. The above mentioned source observed that whichever ethnic group hold power in Rwanda seek to dominate. The source stated that PDR support a form of power sharing that will ensure neither ethnic group can dominate; particularly in the case of the police, army and intelligence services. The source confirmed that the Tutsi currently dominates senior positions within the security services. It was added that the PDR commits itself to working with anyone opposed to violence and the concept of ethnic supremacy. The PDR consider such a system can break the cycle of killings.

238. It was explained that in response to the above, the Government accuses PDR of advocating ethnic division. The RPF appear to prefer a policy of ignoring the whole ethnic issue.

239. The same source explained that the PDR is not a Tutsi or a Hutu party. A western embassy in Kigali (D) confirmed that the PDR is not an ethnic party. The former source explained that when the PDR was formed many Tutsi and well as Hutu openly declared their support for the party. However, the regime intimidated the Tutsi supporters and asked them to quit which led to defections from the party. The same source confirmed that there had also been incidents of harassment of Hutu members and explained that this was why the PDR no longer publicise the identities of their supporters.

240. The above mentioned source considered that the PDR currently represent the only political opposition within Rwanda. It was maintained that with the intimidation by the authorities few people would make their support known publicly. However, the source claimed that the PDR did have sympathisers in the National Assembly.

241. With regard to freedom of the population to discuss politics the same source commented that whilst people do discuss the subject they do so in secret and only amongst trusted persons.

242. The source further commented that the PDR has never been allowed to start as a “political party”. The same day as the announcement that a new political party was to be formed the National Assembly gathered to rule the formation of the party illegal. Prominent members of the party have since been intimidated and beaten. A western embassy in Kigali (D) confirmed at least one occasion where the embassy was aware that known member's of the PDR had gone to the US Embassy wounded and bleeding. An informed anonymous source in Kigali also stated that members of the PDR have been denied access to the internet, had their homes searched and items confiscated, and in the case of former President Bizimungu denied the right to attend mass.

243. The same source stated that the experience of the PDR illustrates that it is impossible to be politically active in Rwanda without the approval of Kagame’s inner circle. There is no political freedom in Rwanda and it is the CID who is responsible for carrying out the persecution of members of the political opposition. It was stated that the authorities also attempted to accuse members of the PDR with involvement in the genocide.

244. The source claimed that the most prominent members of the PDR, including Pasteur Bizimungu and Charles Ntakirutinka have personal escorts wherever they go. The authorities claimed that this was for the personal security of the individuals. However, the source contended that the presence of these escorts was primarily to monitor the activities of the individuals and intimidate those who visited them. The source alleged that the escorts had unsuccessfully attempted to prevent those they were supposedly protecting from entering the embassies of Belgium and the UK. The source also stated that three western diplomats representing the Belgium, UK and USA were asked to leave the home of Pasteur Bizimungu; a fact confirmed by two western embassies in Kigali (B and D).

245. Finally, the above mentioned source claimed that the killing of Gratien Munyarubuga in broad daylight on 26 December 2001 was the work of the DMI but given that the same people undertook the investigation of the murder the result was known.

246. A western embassy in Kigali (D) described the PDR as the only internal political party actively opposed to the Government. Following the announcement of the parties’ formation in May 2001 the Government embarked on an intensive and quickly successful campaign to dissuade those Tutsi who had initially expressed their support to disassociate themselves from the PDR. In doing

so they inferred that the PDR was a radical Hutu party that could not represent the interests of the Tutsi minority. Once the Tutsi concerned had resigned the Government were able to label the PDR as a Hutu party.

247. During June 2001 the PDR sent two communiqués to President Kagame. Each letter had five signatories but the total different persons signing one or both these letters were 8. Of these one has been murdered and another was in detention for two months.

248. In relation to the murder of Gratién Munyarubuga a western embassy in Kigali (D) expressed doubt at the authorities claim it was an ordinary murder case. The source observed that this was at least the second physical assault the deceased had sustained (he was assaulted in August 2001 and there were unconfirmed reports of a second assault before his murder). The source confirmed that all signatories to the letters to President Kagame have been watched and followed by the authorities. Whilst pointing out that it is very difficult to prove Government involvement in the murder the source considered that out of the 8 signatories the person murdered was a “little fish” and the PDR view that the killing was a “warning not to cross the line” may have some credence.

249. A second signatory, Catherine Mujawamariya was in detention between December 2001 and January 2002; no formal charges were brought against her. In relation to her case a western embassy in Kigali (D) explained that she had lost her whole family in 1994 when the RPF took Kigali. She had sought legal redress and retained material relating to the cases of her family members. This had been confiscated at the time of her detention and whilst her detention could be a plain act of intimidation relating to her involvement with the PDR this additional factor may also be why she got into trouble.

250. A western embassy in Kigali (C) observed that former president Bizimungu is a powerful motivator of the people and poses a genuine political threat to the RPF; he added that the RPF have every reason to be worried. The source considered that Bizimungu himself was perfectly safe as there is no way the state would attempt to kill him. Such a move would be extremely stupid and the current Government is not stupid”.

251. With regard to the other less high profile supporters of the PDR the above mentioned source commented that the Secretary General of PDR, Charles Ntakirutinka is probably also safe. The source explained that Ntakirutinka had done the rounds of the western embassies and in such circumstances, whilst not untouchable, his opponents would think twice about shooting him. However, the source expressed the view that members of the party had probably been killed by or on behalf of the state. The source added that whilst there was no proof of this there was certainly “more of a co-incidence than I would buy” in respect of the killing of Gratién Munyarubuga. It was explained that whilst Munyarubuga was not a routine PDR-activist he was heavily involved. He observed that other members of the PDR watch their backs.

252. The Associated Press (AP) reported that Bizimungu had been arrested on 19 April 2002 after documents found during a raid on his home indicated he had been conducting “illegal political activities designed to breed discontent and endanger national security”. The arrest came two weeks after Kagame warned the former president that the Government’s patience “is not infinite.” Police

also arrested Charles Ntakirutinka following the seizure of documents from his home on 20 April 2002.<sup>48</sup>

### **Alliance Rwandaise pour la Renaissance de la Nation (ARENA)**

253. After Joseph Kabuye Sebarenzi, was forced to resign as Speaker of the National Assembly in January 2000 he went into exile in the United States the same month. In March 2001 he formed a new political organisation in the US named Alliance Rwandais pour la Renaissance de la Nation (ARENA).<sup>49</sup>

254. At the time of the formation of the ARENA Sebarenzi stated that a priority for the new organisation was to restore unity for Rwandans and put in place a law based on three pillars: wisdom, truth and justice. ARENA wants a parliament that includes Rwandans from all tribes and one that is divided into two chambers for the senate and for the parliamentarians. Acknowledging that the new organisation was unable to initiate anything whilst outside the country Sebarenzi stated that ARENA have people “some of whom are inside the country, with whom we shall work to put in place a better government”. He also advocated a political system where the president would not be involved in the day-to-day running of the country stating that this should be the job of the prime-minister controlled by parliament. Sebarenzi added that, “the leader may be a president or a king, depending on what Rwandans will decide”.<sup>50</sup>

255. According to Reyntjens ARENA and its supporters are not monarchists, i.e. supporters of the return of the king to Rwanda.

256. From its base in the US ARENA is actively commenting on the political and human rights developments in Rwanda. In a statement in early June 2001 ARENA condemned the Rwandan Government’s persecution of former president Pasteur Bizimungu and recalled that Bizimungu was placed under house arrest in May the same year when he tried to form a new party in Rwanda. ARENA stated that “this proves once more how much President Kagame strongly opposes political pluralism, and how much his words and deeds of his regime differ...ARENA fears that the persecution of political opponents, the continual muzzling of political parties, and the persistent violations of the human rights has accentuated the exile of Rwandans”.<sup>51</sup>

### **The monarchist *Ingabo Z’umwami* or Army of the King**

257. The majority Hutu population of north-west Rwanda began their fight against the extension of the royal power over their region at the start of the twentieth century and in 1959 they rapidly joined

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<sup>48</sup> The Associated Press, Kigali, 21 April 2002.

<sup>49</sup> Human Rights Watch, “Consensual Democracy” in Post-Genocide Rwanda: Evaluating the March 2001 District Elections, ICG Africa Report No. 34, 9 October 2001, p. 30.

<sup>50</sup> IRIN, Nairobi, 29 March 2001.

<sup>51</sup> IRIN, Nairobi, 5 June 2001.

the Hutu-led revolution in 1959 to overthrow the monarchy in Rwanda. The king went into exile in 1961. However supporters of the former king are now found in north-west Rwanda.<sup>52</sup>

258. In early 2000 HRW interviewed several persons resident in north-west Rwanda and they have told HRW that many people see the king as an alternative to the current Government. According to HRW to the people out on the hills as well as in the capital, the king has become a symbol of potential opposition to the Government. Although most who talk of such a ruler are referring to Jean-Baptiste Kigeri V Ndahindurwa (now living in exile in the United States), others in the north-western prefecture of Gisenyi talk of a mythical ruler *Kabandana*.

259. HRW found it difficult to evaluate the extent of the support for a return to monarchy, but in some cases the authorities - whether national or local - and even private citizens have falsely accused political or personal enemies of being monarchists, thus possibly giving the impression that loyalty to the king is more widespread than it actually is.<sup>53</sup>

260. According to HRW the supporters of the former king Kigeri V Ndahindurwa include both Hutu and Tutsi. Ndahindurwa is Tutsi but by custom the king represented all Rwandans. Many of the king's supporters today are so-called genocide survivors who are disappointed with the RPF Government. They find that the Government has failed in their demand for justice and support. The genocide survivors are disappointed about the lack of progress in prosecutions for genocide as well as the prosperity of government officials grown rich from corruption. Many survivors, especially widows and orphans, are living in misery and poverty.

261. The multi-ethnic nature of the monarchist group poses a major challenge to the authorities who previously could discredit the opposition groups for being composed of only Hutu and for including persons implicated in the genocide. Now both the RPF and the Government are themselves increasingly criticised for being dominated by the Tutsi.<sup>54</sup>

262. In April 2000 HRW reported that since mid-1999, Rwandan authorities have identified a new threat to security in the country. This threat is supposedly coming from supporters of the Army of the King or *Ingabo Z'umwami*. The king or *umwami* of Rwanda was driven into exile in 1961.<sup>55</sup> According to an interview broadcast by the BBC on 28 February 2000, the sixty-year old former king now lives in a suburb of Washington D.C. He disavowed any link to an armed resistance group and insisted that he would only return to rule Rwanda if a majority of Rwandans wanted the monarchy restored.

263. HRW has reported that General Kagame has welcomed the return of the king as a private person. However in December 1999, Kagame threatened to crush any attempt to restore the king to power by arms. Between 15 and 20 November 1999, the authorities in the Nyamirambo-area of Kigali arrested more than 200 young people in the street suspected of being part of the Army of the

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<sup>52</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Arbitrary Detentions, Torture and Ill-treatment, Persons Accused of Supporting the King, Volume 12, Number 1 (A), April 2000.

<sup>53</sup> Ibid.

<sup>54</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, The "Ingabo Z'umwami" or Army of the King, Volume 12, Number 1 (A), April 2000.

<sup>55</sup> Ibid.



King. They had supposedly been awaiting transport to take them to places where they would receive military training. The men were detained for two days and then handed over to the DMI, which reportedly released them after they had confessed to unspecified crimes.<sup>56</sup>

264. The National Assembly forced the speaker of the assembly, Joseph Kabuye Sebarenzi, to resign in early January 2000. Soon after Sebarenzi was charged with grave offences, including organising the genocide survivors against the Government, supporting the king, disseminating music cassettes by a singer named Sankara that talked of the return of the king, and encouraging soldiers to leave Rwanda purportedly to join the Army of the King. After his resignation, Sebarenzi feared assassination and fled to Uganda and then from Europe to the United States.<sup>57</sup> HRW concluded that Sebarenzi's departure from Rwanda underlined both the important split between the RPF and survivors of the genocide and the dissatisfaction of Rwandans of all ethnic groups with the current Government.

265. HRW reported in April 2000 that Rwandan national and local authorities had on several occasions warned citizens about the Army of the King. In the national news broadcast on Radio Rwanda on 21 December 1999, Kagame was reported to have deplored the presence of troublemakers who were recruiting people to leave the country and join the Army of the King. He asked local authorities in Ruhengeri and Gisenyi particularly to help eliminate this problem. Even before this the local authorities in the north-west had been calling people to meetings to warn them not to support the king and to tell them specifically that insurgents might return to Rwanda and claim to be fighting for the king. RPA soldiers and officers delivered even sterner warnings not to show any interest in the return of the king. According to local sources at the Mahoko market in Kanama commune, Gisenyi, interviewed by HRW, an RPA officer had said that, "...if you dare side with the king, you risk serious trouble. Prison will not be good enough. We are going to make you suffer like we did the last time... We will use bullets and, when we run out of bullets, then we will come at you with machetes".<sup>58</sup>

266. On other occasions the authorities has gone beyond warnings and detained a number of persons for periods ranging from a few days to a month. A majority of those detained in 1999-2000 and accused for supporting the king were teachers. Some have been detained solely for having spoken about the king.<sup>59</sup>

267. HRW has reported that the former king in January 2001 expressed the wish to return to Rwanda and he has called for a referendum on the establishment of the monarchy. This took place one month after he had made consultations with the former president of the DRC, Laurent-Désirée Kabila.<sup>60</sup>

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<sup>56</sup> Ibid.

<sup>57</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Departure of Assembly Speaker Sebarenzi/Silencing the Press, Volume 12, Number 1 (A), April 2000.

<sup>58</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Arbitrary Detentions, Torture and Ill-treatment, Persons Accused of Supporting the King, Volume 12, Number 1 (A), April 2000.

<sup>59</sup> Ibid.

<sup>60</sup> Human Rights Watch, "Consensual Democracy" in Post-Genocide Rwanda: Evaluating the March 2001 District Elections, ICG Africa Report No. 34, 9 October 2001, p. 29.

268. According to Nsenga popular support for the monarchist or the Royal Army/Army of the King in Rwanda was exploited by the rebel-movement AliR when it attacked Northwest Rwanda last year. AliR told the local population in the area that it was in fact the Army of the King in order to secure some support from the people. This took place in spite of the fact that AliR in no way support the return of the king and the monarchist movement.

269. According to HRW the local authorities in Nyamirambo (a section of Kigali) detained more than 200 young people between November 15 and 20 1999 on the charge of being part of the Army of the King. The young men were arrested in the streets and detained in the local lockup for two days and then handed over to the DMI. They were reportedly released after they had confessed to unspecified crimes.<sup>61</sup>

Reyntjens explained to the delegation that President Kagame is a republican and strongly opposes the return of the monarchy in Rwanda. Although Reyntjens did not consider Kagame as the most influential political figure in Rwanda he added that Kagame is not underestimating the “rallying force of the monarchists”. At present there are six or seven political opposition platforms in Rwanda and they all have the same attitude towards the monarchists, but “you do not openly advocate the return of the king in Rwanda”.

270. According to Reyntjens there are two other Rwandan monarchist groups in exile: Unar, which was established a long time ago and is based in Canada, and the Nation-Imbaga Y’Inyabutatu Nyarwanda which was established by Rwandans in exile in Belgium in February 2001.

271. A western embassy in Kigali (E) considered that monarchist movements were of no real political relevance. The embassy had tried to verify the possible distribution of leaflets in Rwanda in support of the king, but it had no evidence of that. The embassy was also unable to verify reports of the arrest of 200 persons accused of being supporters of the return of the king. The embassy finally raised the questions, “why should the population seek the return of a king under whom the majority suffered?” and “why should the Government consider a taxi driver<sup>62</sup> in the US as a serious threat”?

#### **4.8 Ibuka and Avega Agahozo**

272. When asked about genocide survivor’s organisations and if such organisations ever caused problems for the population a western embassy in Kigali (E) remarked that on the contrary, the two organisations the source was aware of were both well-respected organisations. The two organisations in question are Ibuka (Kinyarwanda for “remember”) and Avega Agahozo.

273. Ibuka is a genocide survivors group and according to the source it is the largest Rwandan NGO. Avega Agahozo is also a large organisation that particularly assists women. The source remarked that both were serious organisations that co-operate closely with embassies in Rwanda. The source added that it was frightening to look into the eyes of many involved in these groups as you could see the blank look as their mind was cast back to events of 1994.

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<sup>61</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, The “Ingabo Z’Umwami” or the Army of the King, Volume 12, Number 1 (A), April 2000.

<sup>62</sup> Two of the embassies consulted in Kigali described the former king as a “taxi driver”.

274. The above mentioned source did not accept that the wider population had any reason to be fearful of the work of these groups. Likewise, the source was not aware of any problems faced by members of these organisations from the authorities regarding their activities.

275. According to Reyntjens the chairman of Ibuka is a member of the RPF.

276. In a press release on 24 January 2002 Avega Agahozo and Ibuka said that they were suspending their cooperation with the International Criminal Tribunal for Rwanda (ICTR), and urged the Rwandan Government to follow suit “until it [ICTR] has corrected all its mistakes and accorded sufficient importance to victims”. Avega Agahozo and Ibuka accused the ICTR of recruiting genocide suspects or their relatives as defence investigators without paying enough attention to the security of prosecution witnesses, “persecution and harassment of prosecution witnesses from Rwanda, especially women”, and allowing defence lawyers to tarnish the name of Ibuka and its members by calling them “witness syndicates”. Ibuka and Avega Agahozo had been collaborating with the ICTR since its inception in 1995. The registrar of the ICTR immediately urged the two associations of genocide survivors to reconsider their decision to suspend their cooperation with the tribunal.<sup>63</sup> (See also the section regarding the ICTR).

#### **4.9 Human rights activists**

277. According to a former prominent human rights activist in Kigali the present Government in Rwanda is keen to see persons in exile, including human rights activist, to return to Rwanda. The source explained that returning former human rights activist might not face the same kind of suppression as for example returning politicians. The Rwandan Government would most likely consider the latter as a much more dangerous threat to its power than of human rights activists. It was regretted that Government officials close to President Kagame are confused about the difference between human rights activist and politicians, as they tend to see human rights activist as political activists.

278. It was added that the human rights situation in Rwanda had improved since the period up to 1996. The judiciary and the security situation have also improved since then. In 1996 most of the leading human rights activists left Rwanda and still the Rwandan Government is considering human rights activists and their activities as a threat to the Government. Human rights activists are exposed to a sort of intimidation that the source described as “subtle”. Problems of intimidation often arise when human rights organisations are publishing their reports and declarations. Human rights activist were often detained or victims of other types of abuses like intimidation and direct threats before 1996, but today the situation has improved considerably. The source explained that this is mostly due to the fact that the human rights organisations are aware of an invisible “red line” which the Government has set. This policy was described as “Government control of human rights activist and their organisations”.

279. The source explained that in 1996 a number of human rights organisations were split in the question of their relations with the Government. Some organisations opted to support the new Government while others were against it. This situation created serious problems for a number of human rights organisations, as organisations in support of the Government were influential and

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<sup>63</sup> IRIN, Nairobi, 28 January 2002.

powerful. Cooperation between the Rwandan human rights organisations became very strained as organisations in support of the Government reported about the work and activities of the independent organisations. In this way the government had detailed knowledge about the activities of the independent organisations, their plans and activities. The situation became serious for a number of independent and prominent human rights activists and many found it necessary to depart from Rwanda.

280. According to the same source two human rights organisations are still to be considered as serious and independent. Those two organisations are LIPRODHOR and LDGL who deserves respect and support, but the source expressed concern that the Government may not let the two organisations continue their activities in the future.

281. LDGL claimed that human rights activists are at risk of persecution from the Rwandan Government. LDGL highlighted the case of Florien Ntezimana, a member of the human rights organisation AMI, situated in Butare. AMI is involved in discussing peace, national reconciliation and conflict resolution. Ntezimana was arrested on 22<sup>nd</sup> January 2001. Ntezimana was detained without being formally charged. However, the *prefet*<sup>64</sup> of Butare wrote a letter to all the members of AMI telling them to disassociate from Ntezimana, as he was a “dangerous man”. At the beginning of February the Prosecutor of Butare wrote a letter to the members of AMI informing them that all activities of the organisation had been stopped. Ntezimana was eventually released at the appeal court after it decided that the Rwandan authorities had not followed the correct procedures when detaining Ntezimana.

282. LDGL stated that the reason the Government considered Ntezimana to be “dangerous” was because he dared to question the Government's attitude towards the contentious issues of national unity and peace and reconciliation. LDGL maintain that this is synonymous of the Government's attitude to those who dare to raise their voices against the Government.

### **4.10 Widows, orphans and children**

283. According to UNHCR more than 50,000 children were separated from their parents during the 1994 genocide and national upheaval. Many who are still children remain in care of foster families or international organisations. The Rwandan Government has estimated that 85,000 children have become head of household as a consequence of the genocide.<sup>65</sup> United Nations Children's Fund (UNICEF) estimated in 2000 that over 60,000 children age 18 or younger head households in Rwanda. The Government worked closely with local and international NGOs to secure assistance for children in such situations.<sup>66</sup>

284. The U.S. Department of State reported in February 2001 that the Rwandan Government is committed to children's rights and welfare. Over 85% of the children who were separated from or

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<sup>64</sup> Chief Administrative Officer (Prefect)

<sup>65</sup> UNHCR, Background Paper on the Human Rights Situation in Rwanda, Centre for Documentation and Research, Geneva, January 2000, pp. 12-13.

<sup>66</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2000, 23 February 2001.

lost their parents during the genocide and the massive repatriation in 1996 have been reunited with family members or placed in foster homes.<sup>67</sup>

285. In January 2000 UNHCR reported that there are hundreds of children imprisoned together with adults although the Penal Code prohibits this. Prison conditions are said to be harsh and even life threatening.

286. According to the U.S. Department of State the local authorities arrested 1,300 street children on 1 February 2000, and ordered them to return to their communes of origin or “face penalties for vagabondage and other crimes attributed to them”. Many returned to the street again after a short time.<sup>68</sup>

287. The Rwandan Government has accused Hutu militias and rebels of forcing children into their operations, including their propaganda and courier system, thereby exploiting the children’s knowledge of particular areas and their ability to avoid government lines.<sup>69</sup>

288. There are also reports that Rwandan authorities have recruited children into its armed forces and that some of these have been forced to fight for the Government during its invasion into the DRC (see section 7.1: Forced recruitment).

289. Domestic violence against women and girls and wife beating are common and has continued in Rwanda since the genocide in 1994, and it is normally handled within the context of the extended family, and only on very few occasions do such cases come before the courts.<sup>70</sup>

290. Since April 2000 the courts in Rwanda have handled rape cases against girls and women much more seriously than before. In several cases throughout the country perpetrators of rape have received the maximum sentences under the law.<sup>71</sup>

291. In contrast to the 1992 Family Code the inheritance law, which came into effect at the end of 1999, women are allowed to inherit property from their husbands and fathers and allows couples to choose the type of property rights they wish to adopt. Since the 1994 genocide a large number of women’s groups have emerged. These groups are extremely active in promoting women’s rights, particularly problems faced by widows, orphaned girls, and households headed by children, and addressing social and cultural barriers to the equality of women.<sup>72</sup>

292. Women, whose husbands are imprisoned or detained, have experienced discrimination or harassment from neighbours and other civilians. According to Ntampaka people may believe that such a man participated in the genocide, and this suspicion may prevail even after he has been

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> UNHCR, Background Paper on the Human Rights Situation in Rwanda, Centre for Documentation and Research, Geneva, January 2000, p. 13.

<sup>70</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2000, 23 February 2001.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid.

released from prison. The authorities do not practise such kinds of harassment, but the victims should not expect to be protected from this by the authorities.

293. Referring to the manner in which Ibuka differentiate between different cases when deciding upon provision of assistance to war widows a western embassy in Kigali (D) explained that a Hutu woman whose Tutsi husband was murdered in the genocide would receive support. However, a Tutsi woman married to a Hutu man who died in a camp in the DRC would not be provided with any help. Ibuka will say that Hutu men were involved in genocide themselves. However, according to the source this represents a different approach according to ethnic lines.

294. The same source remarked that most Tutsi are now living in towns and cities. However, those who remain “on the hills” are far more likely to encounter problems, as their Hutu neighbours perceive them as a threat.

295. Wavre advised that the ICRC were involved in micro projects that aim to assist the very poorest widows and children. There are 78 such projects in the country and during 2001 there were 17,730 beneficiaries. The ICRC is involved in the work of reuniting children with their families and the repatriation of children living outside the country. During 2001 ICRC oversaw 844 reunifications and 786 repatriations of which 770 were returned from the DRC.

#### ***4.11 Relations between Hutu and Tutsi and mixed marriages***

296. In referring to the challenges facing Rwandan society today Ndahiro highlighted the example of some of the survivors of the genocide who have to live with and see everyday those who they suspect killed their family and friends. Ndahiro also mentioned the plight of the many child led families in Rwanda today. Finally Ndahiro claimed that the genocide mentality did not die in 1994, instead it changed and manifested itself internationally.

297. According to a western embassy in Kigali (A), the vast majority of high-ranking officers in the army are English speaking Tutsi, whilst the low ranking officers were generally French speaking Tutsi.

298. Whereas, according to the embassy the ethnic make up of the LDF very much depended on the geographical location. The LDF normally reflected the ethnic balance of the area it represented. The embassy also stated that there was a problem with forced recruitment in relation to the LDF. The embassy claimed the biggest problem with the LDF is that they are not paid.

299. A western embassy in Kigali commented that any debate on the ethnic issue in Rwanda today is not tolerated. It is also likely that if someone does raise the issue then there is a large risk that they would be labelled as forwarding “genocide propaganda”.

300. A western embassy in Kigali (B) confirmed that direct discussion of Hutu/Tutsi issues is taboo. Instead, the term “sectarianism” is used to refer to the subject that continues to generate much discussion. The source went on to explain that individuals must be careful what they say regarding the ethnic issue. For example, anyone who advocated a system of proportional representation in Rwanda would face problems with the authorities.

301. The source mentioned that President Kagame who is a Tutsi and the Prime Minister, who is a Hutu, are in fact first cousins. However, despite the Government policy of trying to break down ethnic barriers Kagame chooses not to publicise this fact.

302. A former prominent human rights activist in Kigali was of the opinion that there are no serious tensions among various Tutsi groups in Rwanda. It was emphasised that the most serious tensions in Rwanda are still between the Hutu and the Tutsi populations. The source feared that another genocide might take place in Rwanda if the government's internal problems should deteriorate. In such a situation it is possible that the government could provoke a civil war or a new genocide.

303. An informed anonymous source in Kigali commented that military people have been involved killing people but when this issue was raised with the authorities those doing so were accused of "introducing division amongst people."

304. The above mentioned source stated that opponents of the current regime are accused of corruption or treason if Tutsi and in addition to these crimes Hutu opponents may be accused of genocide. The former Speaker of the National Assembly, Sebarenzi, was accused of treason because he was perceived as a threat. This was described as "a tool for Kagame to liquidate the opposition".

305. The aforementioned source claimed that even at district or sector levels Tutsi are viewed by the authorities as the best citizens and even at this low level some spy on behalf of the regime. Hutu and Tutsi are not equal and if two evenly matched people applied for an official job the Tutsi would get it.

306. UNHCR noted in January 2000 that those Tutsi who survived the genocide continue to face a very different situation compared to those Tutsi who returned from exile in Uganda and other countries. The last group have managed to secure privileged positions, especially in the towns of Rwanda. Generally the Rwandan Government has been described as at Tutsi-government, but the disparity between urban Tutsi and rural Tutsi is striking. The new RPF power elite in Rwanda, mainly returnees from exile have little to do with the poor rural Tutsi.<sup>73</sup>

307. Other human rights observers have confirmed a political and social rift between the ruling elite of RPF-affiliated Tutsi and the Tutsi survivors of the genocide, and they have noted the disappointment and lack of confidence in justice among the genocide survivors in Rwanda.<sup>74</sup>

308. On the subject of mixed marriages, a western embassy in Kigali (C) stated that there over three million people of mixed ethnicity and they would not be any risk of harassment from the authorities. However, the embassy also commented that in some parts of the country there may be some social pressures on those people in mixed marriages. In the opinion of the embassy mixed marriages may have some problems at local level, but they would not face any problems from the Government.

309. According to Ntampaka marriages between a Hutu and a Tutsi are generally not a problem for the married couple or for their children. He emphasised that mixed marriages are very common in Rwanda. Individuals, however, may face problems like discrimination or harassment from civilians but not from the authorities. Discrimination or harassment by one's own ethnic group can take place under certain circumstances, and Ntampaka pointed out that people in the countryside are normally

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<sup>73</sup> UNHCR, Background Paper on the Human Rights Situation in Rwanda, Centre for Documentation and Research, Geneva, January 2000, p. 12.

<sup>74</sup> Human Rights Watch, International Crisis Group, Amnesty International and others.

more tolerant and show more solidarity than urban people. In Kigali, for example, a Tutsi woman whose husband is Hutu could face discrimination from her own Tutsi community.

Reyntjens confirmed that mixed marriages between Hutu and Tutsi are common in Rwanda. He added that there is no such thing as “children of mixed marriages” because Rwandan society is patriarchal, i.e. a child will always belong to his or her father’s ethnic origin.

310. A representative of an international human rights organisation in Kigali did not have information on problems related to mixed marriages, but the source suggested that the number of mixed marriages had decreased since the genocide.

311. A former prominent human rights activist in Kigali informed the delegation that he was of a mixed marriage. Before the genocide people of mixed marriages had no problems related to that, but in the aftermath of the genocide “a wall” existed between the Tutsi and the Hutu population. This division is still very serious and it will probably be so for a long time to come.

#### **4.12 The Batwa (or Twa) minority population**

312. In 1996 the Rwandan Government removed ethnic labels from the identification cards and the Batwa (or Twa) ethnic minority is no longer designated as an “ethnic group”. There are seven Batwa organisations focused on the protection of Batwa interests, however they have not been able to protect their interests. The US. Department of State has no information on specific human rights abuses perpetrated against the Batwa since the 1994 genocide. There is one Batwa representative in the National Commission for Human Rights (NCHR).<sup>75</sup>

313. In September 2001 the President of the Batwa community Zephyrin Kalimbi told a conference on the indigenous people in Africa, held in Kigali, that his people had been denied their land rights and evicted from their ancestral homes. He accused the Rwandan Government of neglecting the Batwa. According to the RNA “the Minister of State in the lands ministry agreed that in the past the Government had not done enough to help the Batwa. The Minister said that the Government was now working to raise the Batwa’s status”.<sup>76</sup>

314. In October 2001 the RNA reported that Rwanda’s National Assembly had passed a law against “any person practising discrimination and segregation in the country”. In passing the law the Speaker of the Parliament, Vincent Biruta, said that “this organic law is in compliance with our national developments policies and strategies because it provides a flexible framework that makes it possible and legal to enforce positive discrimination in favour of vulnerable groups like the Batwa, the disabled and the girl child”. Biruta promised full enforcement of the law that has been passed as a result of the country’s 1994 genocide of between 800,000 and one million Tutsi and politically moderate Hutu.<sup>77</sup>

315. Before the genocide in 1994 it was estimated that 85% of the Rwandan population were Hutu, 14% were Tutsi, and 1% were Batwa (survivors of the Twa or Pygmy tribes). However, Hutu and

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<sup>75</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2000, 23 February 2001.

<sup>76</sup> IRIN, Nairobi, 6 September 2001.

<sup>77</sup> IRIN, Nairobi, 24 October 2001.



Tutsi are not clearly distinct groups, since the two have intermarried for generations. The genocide affected the ethnic composition of the population, but the extent of the change is unknown.<sup>78</sup>

#### **4.13 Religious freedom**

316. Kolini commented that whilst some people may claim that they have been subjected to religious persecution this is not the case. He recalled that before the war there were eight denominations in Rwanda. The only religious group whose members had experienced persecution were the Jehovah Witnesses where there had been isolated problems in Kibungo Province. Kolini explained that they encountered problems as they had organised “home churches” or “prayer groups” in local neighbourhoods and that this disturbed other residents. Jehovah Witness also refused to respect the national flag and would only respect the authority of God. Kolini was not aware of problems in any areas other than Kibungo Province and observed the presence of Kingdom Halls throughout the country in large numbers.

317. Kolini advised that all religious organisations were required to register with the authorities. This instruction had been issued on 30 March 2001 and registration had to be completed within 12 months; he added that the same requirement had been imposed upon all NGOs. There is no problem with the registration process for religious organisations; even the Jehovah Witnesses who Kolini considered would not have been permitted to construct their places of worship had they not registered.

318. Kolini commented that there are a number of small religious sects in Rwanda and he noted that from time to time there are warnings about particular sects on the radio; for example where these sects advocate that children attend prayer meetings rather than school. Kolini also spoke of a sect leader by the name of Deo who was from Nyamirambo (a section of Kigali). Deo had left the country approximately one year ago with a number of children. Kolini understood that Deo was in Western Uganda with the children and had sought refugee status. Kolini added that the church had been making attempts to get the children sent back through their contacts in Uganda.

319. A western embassy in Kigali (B) confirmed that religious freedom had improved since 2000 when there were incidents of persecution against Jehovah Witnesses. The embassy explained that the authorities had been approached by the international community regarding Jehovah Witness, and that the problem had almost ceased. This is supported by an “explosion” in the number of Kingdom Halls throughout the country. Kolini explained that there were isolated problems with individual *burgomaster* who tried to insist upon Jehovah Witnesses participation in night time patrols. However, Kolini confirmed that it was possible to resolve these as and when they arose and that ongoing confirmation with local contacts confirmed that the situation in this area is now fine.

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<sup>78</sup>U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2000, 23 February 2001.

## 5. Judicial system

### 5.1 Court system

320. The judicial system in Rwanda comprises a Supreme Court, 12 Tribunals of First Instance and 143 Provincial Tribunals. Each type of court has a Public Prosecutor's Office. Specialised courts, such as military courts, can be created by law. The Supreme Court is divided into five sections but in early 2000 a system of *Gacaca* (participatory) justice was established as a sixth section of the Supreme Court. According to Africa South of the Sahara it has been estimated that three-quarters of Rwanda's judges were killed during the genocide in 1994.<sup>79</sup>

321. According to a representative of a human rights organisation in Kigali the judiciary system in Rwanda was completely demolished and paralysed after the genocide in 1994. Only 17 judges survived the genocide. Consequently RPA soldiers made arrests and managed detentions, often as retaliation. As a result of this the prisons quickly became overcrowded and have remained so since with a high percentage of inmates suspected of having participated in the 1994 genocide.

322. The above mentioned source considered the judicial system in Rwanda to be corrupt and added that a most crucial problem in Rwanda today is justice. The source explained that if a person wants to rid themselves of an enemy he might exploit the judicial system to do so.

323. The same source explained that the Rwandan human rights organisation LIPRODHOR has a team of so-called trial observers. This team has monitored genocide trials since the end of 1996. LIPRODHOR has registered that the conditions of the genocide suspects varies considerably from region to region in Rwanda. In those regions where the most serious genocide crimes took place the situation for the detainees and prisoners is also the worst.

324. According to the above mentioned source LIPRODHOR has three types of projects:

- Monitoring of trials.
- Release of prisoners and reintegration.
- Distribution of information regarding trials, including a centre for documentation.

325. These projects have contributed to LIPRODHOR's understanding of the situation in various regions of the country. The situation for discharged and released prisoners can be extremely severe in certain areas of Rwanda. In those areas worst affected during the genocide released prisoners who have been released are in a very dangerous situation as some local leaders in such areas could be "hard-liners" who are not willing to cooperate with organisations like LIPRODHOR. The representative described the following areas of Rwanda as the most difficult for released prisoners:

- Kigali Rurale
- Certain parts of Gitarama

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<sup>79</sup> Europa Regional Surveys of the World, Africa South of the Sahara – 2001, Rwanda, Europa Publications, p. 813.

- The surroundings of Butare
- Kibuye

326. A western embassy in Kigali (A) stated that the list of Category One<sup>80</sup> genocide suspects has now been revised twice. It was the public prosecutor Gerard Gahima who revised the list. According to the embassy there have been examples of people being put on the list without having the allegations against them fully investigated. The embassy gave the example of former Prime Minister Rwigema.

## 5.2 Gacaca court system

327. In October 2000 the National Assembly adopted legislation, providing for the establishment of so-called *Gacaca* courts (traditional Rwandan grassroots courts). The *Gacaca* trials are to be conducted by councils in those communities in which the crimes were committed. The intention with the *Gacaca* system of justice is both to alleviate pressure on the existing justice system, by reducing the number of detainees awaiting trial, and to aid the process of reconciliation within Rwanda.<sup>81</sup> In February 2001 the news agency Hironnelle reported that the proposed Government legislation to allow for the creation of *Gacaca* courts had been declared constitutional by Rwanda's Constitutional Court. The decision cleared the way for introducing the *Gacaca* courts, intended to speed up the trial of some 120,000 people in Rwandan prisons held on suspicion of genocide and crimes against humanity. According to Hironnelle the Rwandan authorities maintain that the *Gacaca* process would contribute to the fight against impunity and the promotion of national reconciliation.<sup>82</sup>

328. In September 2001 RNA reported that Rwanda is to set up 11,000 *Gacaca* courts "to ease the pressure on an overburdened prison system now holding 115,000 inmates". The trials are expected to last three years. The modern judicial system in Rwanda is unable to handle the workload and the Secretary-General of the *Gacaca* court system, Augustin Nkusi, said the trials would be held nationwide and save the country's scarce resources. The prison system in Rwanda cost the country at least US \$1 million each year. Nkusi added that before the 1994 genocide Rwanda had 785 judges but less than 20 judges and 70 lawyers survived.<sup>83</sup>

329. According to Radio Rwanda President Kagame appealed to the nation in October 2001 to "discard ethnicity, sexism and regionalism" as the people voted to elect judges and other officials to serve in the *Gacaca* system. Each of the 11,000 *Gacaca* courts is to be served by a panel of 19 elected judges. Kagame also stated that, "it is not the intention of the *Gacaca* courts to release those in prison unconditionally. These courts have laws that will govern them and clearly stipulate penalties for those found guilty". However, HRW in New York said that the *Gacaca* system "may be subject to political pressure".<sup>84</sup>

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<sup>80</sup> Category One prisoners are the genocide planners.

<sup>81</sup> Europa Regional Surveys of the World, Africa South of the Sahara – 2001, Rwanda, Europa Publications, p. 813.

<sup>82</sup> IRIN, Nairobi, 16 February 2001.

<sup>83</sup> IRIN, Nairobi, 25 September 2001.

<sup>84</sup> IRIN, Nairobi, 4 October 2001.

330. Regarding the *Gacaca* system Radio Rwanda reported that Senior Adviser to the African Division of Human Rights Watch, Alison Des Forges has stated that, “the system has flaws, but it provides the only real hope for trials in the foreseeable future for more than 100,000 persons now detained in inhumane conditions”.<sup>85</sup> According to RNA it has been widely acknowledged that it would take decades to put the defendants on trial in regular courts.<sup>86</sup>

331. Nsenga considered that it would take 100 or 200 years before all those detainees accused of having participated in the genocide would be put on trial in regular courts. He added that the *Gacaca* system only deals with Category Two to Four cases. An anonymous Government official also considered that it would last “a century or two” before all genocide detainees would be put on trial if not for the *Gacaca* system. The source added that the *Gacaca* process is due to start soon.

332. Hironnelle reported in December 2001 that the *Gacaca* court trials are expected to begin in May 2002 according to a timetable issued by the Rwandan Supreme Court. Approximately 260,000 *Gacaca* judges were elected by their own communities as “people of integrity” in October 2001. The judges are to preside over the courts. The trials will begin once the training of the judges has been completed. The first stage involves the training of 780 trainers during February and March 2002, consisting primarily of magistrates and final year law students. After their own training, they will then be divided into small groups to train 254,152 *Gacaca* judges. Hironnelle added that, “special challenges will be faced as many of the judges lack much formal education, and some, especially at the lowest administrative level, are even illiterate”.<sup>87</sup>

333. According to RNA the EU and European countries have provided funding for monitoring the *Gacaca* court trials in Rwanda. Rwanda’s National Human Rights Commission (NHRC) has received € 1.3 million to monitor upcoming trials. NHRC will monitor the fairness of the proceedings over a three-year period. The NHRC added that with this aid the Commission will be able to extend its activities to rural residents, who are most vulnerable to human rights violations.<sup>88</sup>

334. The Catholic Peace and Justice Commission (CPCJ) saw the *Gacaca* process as an extremely positive move on the part of the Government and considered *Gacaca* as a useful tool in the advancement of the movement for national unity and reconciliation. Moreover, CPJC also commented that the elections of *Gacaca* judges were both free and fair. A recent report by LIPRODHOR claimed that 93% of Rwandans were in favour of the *Gacaca* system. CPJC highlighted the fact that presently there was a little uncertainty among Rwandans about how effective *Gacaca* would be, but that the overall attitude of Rwandans towards *Gacaca* was very positive. However, a western embassy in Kigali (E) claimed that there were some negative feelings from both Hutu and Tutsi with regard to *Gacaca*. The embassy contended that some Tutsi felt *Gacaca* was too closely linked to the process of “national unity and reconciliation” and consequently that justice would not be fully done. Many Hutu, on the other hand, felt that *Gacaca* might be a source of Tutsi vengeance rather than fair justice.

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<sup>85</sup> Ibid.

<sup>86</sup> IRIN, Nairobi, 23 October 2001.

<sup>87</sup> IRIN, Nairobi, 12 December 2001.

<sup>88</sup> IRIN, Nairobi, 23 October 2001.

335. When asked about the *Gacaca* system, a prominent intellectual in Kigali commented that it was very much a “wait and see process”. The effectiveness of *Gacaca* would not be total as it was limited to one area of the population i.e. those who allegedly took part in the genocide. The source indicated that there would be many in the current Government who should face *Gacaca*, but because of the limitations they would never face justice.

336. A western embassy in Kigali (D) expressed the view that under the *Gacaca* process judges should also be able to consider war crimes committed by members of the RPF but the Government confirmed that this is not the purpose of *Gacaca*. As a consequence this has generated discontent amongst the Hutu community. However, the source explained that overall the Hutu view the fact that many will get out of prison by virtue of the *Gacaca* process as a positive development that will allow many families to get on with their lives. Conversely, the source remarked that the Tutsi are generally highly suspicious of the process, which many regard as an indirect amnesty law. Many multiple murderers stand to be released from prison and those who plead guilty will have their sentences cut by 50%.

337. However, the main criticism from the aforementioned source was that the people have not received enough explanation of why the *Gacaca* process has been chosen to deal with those accused of participation in the genocide or how exactly the process will work. The source feared that this lack of awareness amongst the population will create enormous problems and security difficulties.

338. A representative of an international human rights organisation in Kigali agreed that a major problem with *Gacaca* is ignorance and unawareness. Many citizens do not fully understand what the *Gacaca* courts and the process is all about. The source added that in general people are not optimistic about the justice system “so the best solution now is the *Gacaca*”. However, the source considered that the *Gacaca* process had several shortcomings, such as a total lack of the reconciliation aspect.

339. A former prominent human rights activist in Kigali found that the *Gacaca* court system was a “political solution to a judicial problem”. *Gacaca* courts might be a reasonable solution to the problem, but the source adopted a “wait and see” approach to the system.

340. A western embassy in Kigali (C) commented that the *Gacaca* process is a very important issue and one where nobody can quite predict what will happen. Although the timetable for implementation is behind schedule the source praised the progress that had been made in laying the ground for the use of this system of justice to deal with the many thousands of the countries prisoners who have been awaiting trial for up to eight years. Whilst acknowledging that the *Gacaca* system does not meet with international standards the source regarded it as the best solution anyone has come up with to address the problem.

341. The same source commented that *Gacaca* was not “victors’ justice” but represented a “genuine attempt to sort out a very real problem”. *Gacaca* was considered to be “intentionally good” and it has the potential to be a success provided people were committed. This was where the source foresaw a potential problem, as “one does not know how committed people really are”.

342. In particular the source identified a lack of planning in respect of the arrangements for those sentenced to perform a period of community service and was not entirely convinced that this aspect would work. The source commented that “as justice must be seen to be done this could present

problems”. If proper arrangements for community service are not in place people will not do it and, in such circumstances, this would risk destabilising the whole *Gacaca* process.

343. The above mentioned source was not unduly concerned about people not speaking out. The source observed that this was always a risk but instances of people not speaking out during the judicial process is a worldwide problem. However, the source expressed some reservations as to how well the spirit of *Gacaca* sits with the Rwandan culture that does not lend itself to speaking out.

344. A representative of a human rights organisation in Kigali considered the establishment of the *Gacaca* courts as defective as these courts do not consider the war crimes committed by the RPA. The source explained that the RPA committed serious crimes including killings and even mass murder of ordinary Hutu civilians, especially in Butare, Kibungo, Kigali Rurale and in Gitarama. RPA also committed serious crimes against civilians in 1997-98 when Hutu rebels from the DRC infiltrated the north-west. The RPA accused the population in the area of supporting the rebels and many ordinary citizens were killed by the RPA. The source considered it to be a serious handicap that the *Gacaca* courts are not dealing with the crimes of the RPA.

345. An informed expatriate in Kigali remarked that “there are still a lot of guilty people on the hill”. With the advent of *Gacaca* some people fear persecution and others fear false accusations. The source explained that under the traditional justice system of Rwanda “if someone kills a member of one family someone in that family can kill a member of the murderers family”. Where the original murderer cannot be found the avenger will seek out another member of the murderer’s family and accuse him or her. The source concluded that this is why there are many false accusations in Kigali. Finally the source criticised President Kagame’s stated position that RPF killings during 1994 could not be judged under the *Gacaca* process.

346. The same source spoke of a woman who had been killed in the DRC after she had testified in a *Gacaca* trial. However, in spite of the systems shortcoming the source could not think of another alternative. The source was not convinced the authorities in Rwanda were in a position to guarantee the protection of all who wished to testify in *Gacaca* trials even though they would “probably want to do so”. It was added that people “in the hills” do not regard the LDF as a solution or that they provide them with protection.

### **5.3 Military courts**

347. According to Nsenga the military courts of Rwanda are dealing with cases where members of the armed forces, the RPA, are accused of having committed crimes, and he strongly denied that members of RPA enjoy impunity in Rwanda. He also found it deeply simplistic to state that on the one hand there was a “Hutu genocide” and on the other hand a “RPA genocide”, and he emphasised that “this Government have not committed a genocide, but it has punished!”

348. Ndahiro stated that even though the NHRC had not carried out a thematic investigation into military courts, they were very happy in the way that military courts are run. Ndahiro commented that the courts were very well organised, set a very good standard for human rights and also staff undertook some human rights training. It was also stated that military courts were very efficient in providing a verdict within eight days of the hearing.

349. HRW has reported that the military justice system in Rwanda has received substantial support from foreign donors like the United States and the United Kingdom.<sup>89</sup>

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<sup>89</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Military Justice System, Volume 12, Number 1 (A), April 2000.

## 6. Detentions and prisons

### 6.1 Detention and prison conditions

350. According to UNHCR the justice system of Rwanda completely ceased to function during the genocide and the capacity of the prison system had been seriously eroded. Tens of thousands of men, women and children of all ages were arrested and detained in overcrowded prisons and communal detention centres known as *cachots*.<sup>90</sup>

351. According to the US Department of State, ICRC has registered approximately 106,000 prisoners detained on genocide or security-related charges and estimate that an additional 5,000 prisoners are detained on charges unrelated to the genocide. However, the Ministry of Justice routinely refers to the prison population as numbering 130,000. The US Department of State estimates that 95% of individuals incarcerated are awaiting trial on genocide charges.<sup>91</sup>

352. A representative of a human rights organisation in Kigali informed the delegation that the total number of detainees in Rwanda is about 110,000. The same source stated that approximately 90% are accused of having participated in the genocide in 1994 and that the majority of the detainees have been imprisoned for more than seven years. The source added that there are also 6-7,000 people who are in prison for “common crimes.”

353. The same source explained that the genocide trials have been going on for more than five years but only about 6,000 detainees have been tried. The vast majority of those in detention are awaiting trial and under the current court system most of them will never be brought to trial.

354. Wavre advised the delegation that the prison population in Rwanda rose sharply in 1994 when the RPA took control of the country and again in 1997 after the breaking of the refugee camps in the DRC. Since then the prison population has decreased slowly but steadily.

355. Nsenga informed the delegation that the problem faced by the prison system is one of overcrowding and it is serious. He added that the Ministry of Internal Affairs is co-operating with the ICRC who can visit any prison in the country at any time.

356. Wavre confirmed that an agreement was concluded with the Rwandan Government in 1994. The agreement guarantees that ICRC delegates have the right to visit all detainees in all places of detention in the country. Wavre also explained that the organisation provides 50% of food to 93,000 prisoners. The Rwandan Government provides the other 50%. ICRC advised that they have also provided the majority of hygiene, sanitary and kitchen provisions in Rwandan prisons since 1994.

357. The U.S. Department of State report that prison conditions in Rwanda are harsh and life threatening due to chronic overcrowding, extremely poor sanitary conditions and a lack of adequate food or medical treatment. Prison overcrowding increased during 2001 as prisoners were transferred

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<sup>90</sup> UNHCR, Background Paper on the Human Rights Situation in Rwanda, Centre for Documentation and Research, Geneva, January 2000, p. 6.

<sup>91</sup> US Department of State, Rwanda, Country Reports on Human Rights Practices 2001, 4 March 2002.



from *cachots*, the local detention centres, into the larger national prisons. Most of the 708 deaths in prison reported during 2001 were the result of preventable diseases, suspected HIV/AIDS, malnutrition, or the cumulative effects of severe overcrowding. Unlike previous years there were no deaths attributable to abuse during 2001, and there were no reports of prison officials dismissed for corruption.<sup>92</sup>

358. In February 2001 the RNA reported that Theobald Rwaka, Rwanda's Minister for Internal Affairs, dismissed as "baseless and lacking in facts" a LIPRODHOR report criticising conditions at Nstinda prison in Kibungo prefecture; the country's largest with a population exceeding 12,800.<sup>93</sup>

359. The LIPRODHOR-report had referred to inmates dying from suffocation and acute food shortages and claimed men and women were housed in the same facility. Rwaka commented that the Government intended to reduce the number of prisoners by releasing the sick, elderly and people without files and speeding up trials. The U.S. Department of State confirmed that the release of such individuals took place during 2001.<sup>94</sup>

360. An informed expatriate in Kigali expressed the view that conditions vary greatly between different prisons. In all cases men and women are detained separately although in some cases young children remain with female prisoners whilst in others they do not. The women prisoners in Kibuye did not have access to their own shower or toilet facilities and were obliged to use the same facilities as the male prisoners. Overcrowding is the most serious problem in Rwandan prisons and in Kibuye prisoners sleep in shifts. With regards to deaths in custody the source confirmed that these mostly occurred as a result of disease. The source cited the example of a typhus outbreak in Rilima Prison during 2001 that claimed approximately 90 lives. However, in summing up the conditions of Rwandan prisons the source did not consider the conditions to be life threatening.

361. A prominent intellectual in Kigali indicated to the delegation that overcrowding was not as much of a problem now as it had been in 1994-96. The person in question had been imprisoned for five years between 1994 and 1999. The source stated that both *génocidaires* and other criminals were held in the same areas and that those prisoners who had admitted their crimes were kept in better conditions. Women and their children up to the age of five were housed together in the prisons. Relatives of prisoners can visit once a week but they do not have direct access and prisoners and their family members can only communicate at a distance. In conclusion the source described physical conditions in prisons are harsh, but they vary from prison to prison.

362. The United Nations Development Programme (UNDP) in Kigali described prison conditions as "pretty awful" but pointed out that there is no violence and few security personnel. Recounting a visit to the Gitarama Central Prison a UNDP representative had observed that "a piece of string was tied across the entrance; however, nobody attempted to escape". The source recalled that the striking thing was that the prisoners were extremely well disciplined. There were many people in the yard when the source arrived at the prison and he thought that it was their exercise time. However, when the representative entered the sleeping accommodation he observed this too was

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<sup>92</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2001, 4 March 2002.

<sup>93</sup> IRIN, Nairobi, 8 February 2001.

<sup>94</sup> U.S. Department of State, Rwanda, Country Reports on Human Rights Practices 2001, 4 March 2002.

full and the representative concluded that the prisoners must sleep in shifts. They were in long 4 tier bunks and just fitted into spaces side by side.

A representative of an international human rights organisation in Kigali explained that the relaxed security precautions in Rwandan prisons are due to the fact that Rwandan society is very “transparent and small”. Any prisoner who escapes would be in serious trouble outside the prison and he or she would find it very difficult to hide from the authorities or the people.

## **6.2 Delegation’s visit to Gitarama Central Prison**

363. On 14 March 2002 the delegation visited the Gitarama Central Prison, 40 kilometres west of Kigali. Entry to the prison grounds is through a gateway with a rope across it. This gives access to a courtyard of which there are separate secure entrances to the men’s and women’s sections along with some small workshops. Additional workshops are located just outside the main entrance.

364. At the time of the visit this prison had a total of 8,087 prisoners of which 7,490 were *génocidaires* including 288 minors. Common criminals were also detained in the prison alongside the *génocidaires*. The prison had separate sections for men and women; the vast majority of the prisoners were men. Small children were accommodated with their mothers in the women’s section. It should be noted that the women’s section had much more space for each prisoner than the men’s section. UNICEF provides children with schoolbooks and the other prisoners had limited access to education although demand for this far exceeded availability.

365. The delegation had full access to all sections of the prison except for the internal *cachot* or punishment block, which according to prison statistics was unoccupied at the time of the visit. The delegation also had the opportunity to speak with the prisoners without restriction. Within the respective men and women's sections all prisoners were wearing their own clothes; in many cases these resembled rags. Any prisoner who leaves their respective section was dressed in a pink uniform; this included all prisoners who were in the courtyard.

366. According to Sebasaza Zabulon, Directeur Adjoint of Gitatama Central Prison visitors are admitted to see prisoners twice a week. The visitors were allowed to bring food, clothes and other gifts to the prisoners and they may meet with the prisoners for about 15 to 20 minutes in the courtyard.

367. Zabulon stated that there had not been any serious trouble with the conduct of the detainees in the prison. Escapes from the prison occurred about once a month. Escapees are punished by being placed in isolation in the *cachot* for up to a week; thereafter they are subjected to increased supervision. Zabulon emphasised that most of the prisoners originated in the Gitarama area and that a successful escape from the prison could be dangerous for the prisoner. Outside he would run the risk of being recognised by the local population and handed over to the authorities or even killed by local people.

368. A prisoner that has behaved badly would be punished by refusal to leave their section of the prison. Prisoners that are dangerous to other prisoners would be handcuffed and may risk being placed in the *cachot*.

369. When asked how many of the 8,000 prisoners would never leave the prison Zabulon replied that the vast majority of the prisoners consist of two categories. Category One was prisoners who were sentenced to life imprisonment or had received a death penalty. Those prisoners were never

allowed to leave the prison. Category Two were those detainees who had not yet been convicted but who did not dare to leave the prison for fear of their own security. Zabulon estimated that about 7,000 of the 8,000 prisoners never leave the prison.

370. A number of prisoners are regularly permitted to leave the prison grounds in order to work in the nearby agricultural fields or in one of the smaller workshops. This possibility was however limited as for every five prisoner's one guard is required to be with them.

371. Approximately 7,500 male prisoners had at their disposal a living area not exceeding 200 x 200 meters. Each prisoner in the men's section had a sleeping area of 40 cm width in continuous multi-layer bunks. It was difficult for the delegation to see how all prisoners would be able to find a sleeping place simultaneously. It was explained that a number of prisoners would be occupied with cooking duties during the night.

372. The prison had a medical ward where rudimentary medical treatment took place. In more serious cases a prisoner could be admitted to the nearby Gitarama hospital or a doctor would visit the prison; however the delegation were advised that visits by a doctor were rare.

373. The men's section in particular was extremely overcrowded and such were the number of people that it was very difficult for the delegation to move around within communal areas. The hygienic conditions were very poor and there was no space for any kind of privacy. In the sleeping ward and in any other enclosed area the air was hard to breathe.

When asked how many of the detainees and prisoners at Gitarama Central Prison would be guilty of having participated in the genocide in 1994 a former prominent human rights activist in Kigali considered that roughly 60% of the detainees were guilty. Other sources in Kigali estimated that up to 90% of the detainees had participated in the genocide.

### **6.3 Conditions in cachots**

374. The UNDP in Kigali observed that the most serious human rights problem related to the detention facilities in Rwanda is with the *cachots*. These are local detention facilities, which are purely intended to hold people on remand. The conditions are very poor and those held there are not provided with food; this must come from their families or friends. As a result of prison overcrowding people are detained in *cachots* for prolonged periods. The UNDP are involved in a number of projects in order to construct new prisons and so alleviate the current problems of overcrowding.

375. Wavre also informed the delegation that approximately 17,000 detainees are held in *cachots* where they are dependent on their families for provision of their food. The IRIC provide little support to *cachots* but they do supply some medicines to dispensaries located close to the *cachots*.

376. According to a representative of a human rights organisation in Kigali the whole *cachot*-system does not have a budget and that the detainees in the *cachots* are totally dependent upon the receipt food and medical deliveries etc. from family members or friends.

### **6.4 Use of torture**

377. According to Nsenga torture or other inhuman treatment of prisoners in Rwandan prisons does not occur.

378. A prominent intellectual in Kigali who served five years in prison between 1994 and 1999 stated that torture had occurred in Rwandan prisons during the period 1994-95; however since then the source had not recorded any incidents of torture.

379. According to the International Rehabilitation Council for Torture Victims (IRCT) “human rights reports confirm unanimously that the arrests [of suspected *génocidaires*] were carried out in a brutal way, and the living conditions in custody remain precarious. The same reports also reveal that torture is still regularly used, especially in communal prisons and brigades”.<sup>95</sup>

380. An informed expatriate in Kigali advised the delegation that incidents of torture have occurred in *cachots* at the time of detention. This takes the form of beatings by the police with the aim of extracting confessions. Following their transfer to prison those who stated that they had confessed in such circumstances often seek to withdraw their statements. The source observed that some individuals who claimed that they had been forced to confess had marks on their upper arms where they had been tied.

381. However, the same source did not believe torture occurred in Rwandan prisons. The source explained that prisoners played a role in the running of these facilities including the punishment of fellow inmates. The most maximum punishment that could be passed against a fellow inmate would be 3 days in a small cell with little light. An example given by the source of a situation where such a penalty might be incurred was for a homosexual act. In situations where an offence committed is deemed to be sufficiently serious permission of the *Kapot* (Prisoner Chief of Security) is required for detention of up to 15 days in the small cell referred to above.

### **6.5 Prisoner access to lawyers**

382. Regarding accessibility to lawyers Wavre stated that the question was not so much one of accessibility to lawyers but rather the availability of lawyers the number being so small.

383. According to an informed expatriate in Kigali access to lawyers for persons accused of crimes related to the genocide had only been possible a few days prior to their trial. However, the source explained that the reason for this was because of the shortage of Rwandan lawyers who were prepared to represent individuals accused of crimes relating to the genocide. The remainder were represented by *Avocats sans Frontières* (ASF) who were generally only able to see the accused a few days before their trial date. However, the source believed that the situation had improved as the number of Rwandan lawyers has increased.

384. The same source informed the delegation that satisfactory facilities for prisoners to consult with lawyers are located just outside prisons and have been “quite correct and secret” since 1997. Prior to this he explained that there had been instances of guards remaining in the same room during consultations. Access to lawyers is arranged through prison directors who have to sign a request from the prisoner.

385. The only incident where the above mentioned source was aware of access to a prisoner being denied by the authorities occurred in April 1998. In this instance the prisoner had been convicted

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<sup>95</sup> International Rehabilitation Council for Torture Victims (IRCT), *Rehabilitation of Torture Victims, Centres and Programmes Worldwide*. IRCT, Copenhagen, 2000, p. 172.

and sentenced to death and the authorities maintained that because the case had concluded there was no need for further access to a lawyer. The prisoner was executed two days after the request was denied.

386. A prominent intellectual in Kigali informed the delegation that throughout the time the source had spent in prison between 1994 and 1999 access to a lawyer had been denied.

## 7. Military service

### 7.1 Forced recruitment

387. According to Ntampaka the authorities have ceased to use forced recruitment in Rwanda simply because the number of volunteers is sufficient today. A western embassy in Kigali (E) was also of the opinion that the RPA is an army, which operates professionally, and it would rather rely on trained soldiers than put soldier's lives at risk by using untrained recruits.

388. On the subject of forced recruitment into the military, a western embassy in Kigali (A) commented that some forced recruitment had taken place in 1999 when some people had been forcibly recruited to fight in the war in DRC. The embassy also pointed to incidents in Ruhengeri and Gisenyi in November 2001, where it is alleged that each administrative sector had to contribute twenty men between the ages 14-20 to the army. According to the embassy there were reports of houses being surrounded to force men to join the army. Yet, the embassy claimed there is no evidence to suggest that forced recruitment to the military is a persistent problem in Rwanda today. According to the same source new recruits to the army normally come from the ranks of the LDF, ex-FAR and street children.

389. Reyntjens explained that forced recruitment takes place "on the streets and in the prisons" in Rwanda. It is generally members of the Hutu population who are the victims of forced recruitment. Some of these are being forced to fight against Rwandan rebels in the DRC while others are forced to work for the exploitation of natural resources in the DRC. Reyntjens described this as "forced child labour". The recruits are badly trained and while some of the recruits are between 12 and 13 years old most are between the ages of 17-19.

390. An informed expatriate in Kigali commented that by the age of 22 those serving in the LDF would transfer to the RPA, therefore someone recruited to the LDF could expect to end up in the RPA and be sent to DRC. The same source also referred to forced recruitment into the LDF. The source also claimed that forced recruitment directly into the RPA did occur and gave the example of a man married to a western national who left Rwanda after receiving call up papers.

391. According to HRW the Government reportedly forcibly recruited men and children for the army and the LDF. The authorities freed some 300 military detainees from Rilima and Kibungo prisons in mid-2000, supposedly because they agreed to go to fight for the RPA in the DRC.<sup>96</sup>

392. In April 2000 HRW reported that a growing number of genocide survivors resent the Rwandan Governments attempt to justify military operations abroad by the supposed need to protect them from further genocide.<sup>97</sup>

393. See also the following section.

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<sup>96</sup> Human Rights Watch, World Report 2001, Rwanda, December 2000.

<sup>97</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, The "Ingabo Z'umwami" or Army of the King, Volume 12, Number 1 (A), April 2000.

## **7.2 Child soldiers**

394. Besides recruitment to the LDF inside Rwanda, recruitment into LDF also takes place in the Rwandan controlled areas of DRC. Amnesty International (AI) reported in June 2001 that children between 12 and 18 are regularly recruited into LDF and that many of these children are later enlisted into the army proper and sent to the front lines.<sup>98</sup> Local sources have informed AI, that some recruits, including children, have been recruited in Rwanda and deployed in the DRC. According to AI sources in Rwanda have seen children, especially street children, being recruited by RPA and then trained and sent to fight in eastern DRC.<sup>99</sup>

395. LDGL also advised the delegation that many LDF recruits do subsequently pass into the army. However, whilst they confirmed forced recruitment into the LDF did occur in 1999 and even 2000 they explained that the high number of poor and unemployed youth is such that there are now many volunteers.

396. A western embassy in Kigali (E) confirmed that roundups of street children did take place in Rwanda, however, they added that there was no evidence to suggest that these children were then recruited into the army.

397. An informed expatriate in Kigali said that up until 12 months ago they had heard unconfirmed reports of street children being taken to Igwe Island (in the DRC) on Lake Kivu for military training in a camp there. The source added that on occasions all street children disappear from the streets of Kigali. However, according to LDGL the camp on Igwe Island was for undisciplined soldiers and they had no knowledge of children having being taken there in the past.

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<sup>98</sup> Amnesty International, Democratic Republic of Congo, Rwandese-controlled eastern DRC: Devastating human toll (AI Index: AFR 62/011/2001), 19 June 2001, p. 30-32.

<sup>99</sup> Ibid.

## 8. Social welfare

### 8.1 Medical treatment and availability

398. Regarding medical assistance the UNDP is only involved in projects relating to AIDS. However, as a general observation, the UNDP stated that the availability and quality of health facilities is slowly improving in Rwanda. In main urban areas there are good doctors but the lack of facilities is holding them back. Regarding the situation in the countryside the UNDP was not in a position to comment.

399. With regard to the provision of medical treatment the UNDP was not aware of any evidence of discrimination on ethnic lines. The Government is more concerned with bringing what little is available to everyone in need. In illustrating this point the UNDP pointed to the number of supported projects in the Hutu-dominated north-west (Gisenyi) region. However, UNDP noted that there are lots of complaints about inconsistencies in the availability of treatment for those with access to power.

400. Kolini confirmed that malaria was the biggest killer in Rwanda. He spoke of a Government campaign to reduce malaria; this includes encouragement of using mosquito nets that are available at a subsidised price.

### AIDS

401. Current estimates suggest a prevalence rate of HIV/AIDS of 13.7% for 15 – 49 year olds.<sup>100</sup> The UNDP advised that this is 15% higher than the Sub-Saharan African average and pointed out that rapes during the 1994 genocide and the break down of family structures since have contributed to the high rate of infection. Maternal and infant mortality rates have increased substantively due to HIV/AIDS and a large number of children have been orphaned as a result of the disease. According to a RNA report Avega Agahozo (a women's genocide survivor's group) estimate that 66% of genocide widows are infected with HIV/AIDS.<sup>101</sup>

402. The Government of Rwanda considers the HIV/AIDS pandemic to be a "serious development constraint" as well as a major source for insecurity and impoverishment for individuals and households. The Rwandan Government has demonstrated a high political commitment to fighting the disease and has instituted the Commission Nationale de Lutte Contre la VIH/SIDA<sup>102</sup> (CNLS) to which the UNDP provide policy support, and the Treatment and Research Aid Centre (TRAC) to co-ordinate both action and research.<sup>103</sup> UNDP commented that the Rwandan First Lady is

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<sup>100</sup> United Nations Development Assistance Framework (UNDAF), *Rwanda, United Nations Development Assistance Framework 2002-2006*, Kigali, November 2001, p. 12.

<sup>101</sup> IRIN, Nairobi, 15 January 2001.

<sup>102</sup> HIV/AIDS.

<sup>103</sup> United Nations Development Assistance Framework (UNDAF), *Rwanda, United Nations Development Assistance Framework 2002-2006*, Kigali, November 2001, p. 12.



particularly active in this field and during 2001 Kigali hosted an “African First Ladies Summit” on HIV.

403. In his capacity as National Chairman of the Commission for HIV Kolini explained that AIDS poses a serious threat, particularly to young working class people. The commission mobilises the private sector, churches, Government ministers and in particular the Department of Health to alert people of the dangers posed and run seminars throughout the country targeting groups such as the youth or women.

404. UNDP emphasised that AIDS awareness programmes are not very visible to those from outside the country. The UNDP confirmed that they had raised this issue and were informed that such activity is undertaken at a local level. However the UNDP stated that it was difficult to evaluate the quality of such initiatives. UNDP added that the Rwandan radio regularly publicise issues relating to AIDS/HIV in Kinyarwanda. Kolini confirmed that there was regular publicity on the radio and in the press.

405. The UNDP stated that the Government of Rwanda negotiated access to cheap retroviral drugs in 2001 and that these are now available. People infected with the virus therefore have access to treatment. Kolini confirmed that access to cheap retroviral drugs had been negotiated by the authorities but added that the price of these was still relatively expensive for ordinary people. He explained that these drugs are provided when individuals’ condition deteriorates. However, initially individuals are provided with medicine to treat TB and venereal diseases. These conditions pose a particular threat to individuals infected with HIV and measures to tackle these infections help prevent the condition of those infected from deteriorating quickly. However, when the condition of infected persons does deteriorate they are able to attend health centres and will be provided with a card giving access to the necessary consultations and drugs.

406. Kolini stated that stigmatism of those infected with HIV is not a real problem in Rwanda. He did however add that isolated problems might arise as a result of ignorance. The UNDP confirmed the kind of stigmatism prevalent in many other African countries is not present in Rwanda but the most serious problem is still that of persuading individuals to be tested.

## **8.2 Access to education**

407. Primary education in Rwanda begins at the age of seven and lasts, for seven years and is officially compulsory. Secondary education, which is not compulsory begins at 15 and lasts for a further six years divided into two equal cycles of three years. In 2000 there were a reported 363 registered secondary schools with an estimated 124,000 involved in education at secondary level. Rwanda has a university with campuses in Butare and Ruhengeri and several other institutions of higher education. An estimated 7,000 students were enrolled in higher education in 2000. During 1999 13.0% of Government expenditure was allocated to education.<sup>104</sup>

408. An informed anonymous source in Kigali stated that the only state university in Rwanda is the National University in Butare. There is a private university in Kigali and also a number of public institutions of higher education. The source added that academic freedom is limited as the National University is infiltrated by the RPF. To illustrate this point the source claimed that there are military

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<sup>104</sup> Europa Regional Surveys of the World, Africa South of the Sahara – 2002, Rwanda, Europa Publications.

students at the University but the primary purpose of their presence is for intelligence purposes. These people monitor and intimidate other students, prevent strikes and seek election to senior positions in the student bodies. The same conditions apply to higher education institutions in Kigali.

409. The source informed the delegation that the National University of Rwanda in Butare has more than ten faculties. In every case the Dean is a Tutsi – there is not a single Hutu. Whenever a Hutu is selected for such a position he is intimidated so that he resigns.

410. The same source remarked that the RPF leadership fears intellectuals because it does not want debate. The RPF leaders are military people and they behave as such. RPF leaders are generally poorly educated and “behave as if they were still in the bush to solve any problem”.

411. A prominent intellectual in Kigali pointed to the existence of Campes de Solidaritaire (Solidarity Camps). In these camps new university students spend a month receiving military and political instructions in order to provide them with a better understanding of the necessity of national unity and reconciliation policies before entering university. He saw this as a way of letting students know the boundaries they must not cross whilst in university and to promote the RPF ideology. He also saw this as a way of asserting some ideological control over these people before they take up positions in civil society. Attendance at these camps is compulsory regardless of sex or ethnicity. The source also commented that these camps are often sponsored by non-governmental sources. A western embassy in Kigali (A) confirmed the existence of these camps.

### **8.3 People with disabilities**

412. Kolini noted that in Rwandan culture it is the responsibility of the family to care for people with disabilities and that this is mostly what happens in practice. He commented that neither the church nor the Government has done a great amount of work in this area.

413. For people with mental disabilities Kolini confirmed the presence of Ndera Hospital, the one dedicated hospital for the mentally ill in Rwanda. He explained that this was run under the auspices of the Catholic Church and had existed prior to 1994. He also confirmed that there was no stigmatism attached to mental illness. He did however comment that when an individual with a mental disorder who is cared for by their family becomes aggressive the situation might not always be handled in the “proper way”.

## 9. Immigration and embarkation of Rwandan nationals

### 9.1 Entry procedures

414. Captain Rogers Rutikanga, Chief Security Officer, Regie des Aeroports/Rwanda Airport Authorities, Kigali explained that “military people” who had been integrated into the police force operated the Kanombe international airport in Kigali and therefore it was very different to civilian security organs. He explained that when properly documented Rwandan nationals return to the country after a long absence they would be asked the reason for their absence. This aside they are dealt with the same as any other Rwandan returning from abroad.

415. In the event of a Rwandan having a supervised return to the country or returning to the country without the appropriate travel documentation Rutikanga stated that additional questions would be asked. Firstly, the authorities would wish to satisfy themselves that the returning individual is not wanted for suspected involvement in the genocide or any other crime. The individual would also be questioned about how they had left the country and the documentation they had used to depart. If they admit that they used forged documents to depart the above mentioned source explained that the individual would be deemed to have committed an offence and could expect to be taken to court.

416. Regarding Rwandan nationals who have passports issued by diplomatic missions overseas Rutikanga stated that all requests for new or replacement passports submitted outside the country are referred to the authorities in Rwanda where records are checked. He also pointed out that Rwandan nationals are permitted to hold dual nationality.

### 9.2 Reception of returnees

417. A western embassy in Kigali (B) expressed a strong view that it was safe for the overwhelming majority of Rwandans outside the country to return home. The source suggested the number of Rwandans – whether inside or outside the country – who are at risk, is minimal “maybe just 5,000 including all Category One *génocidaires*”. Whilst acknowledging there was no scientific basis to this figure the source stressed that the intention was to illustrate the very small proportion of the population facing a significant risk in a country of eight million.

418. The above mentioned source also explained that some returnees may find life difficult in Rwanda but no more than the majority of population who try to survive in a very poor country. The majority of those seeking asylum overseas do so out of ignorance regarding the true situation Rwanda today, or for economic reasons.

419. The same source observed that the Government of Rwanda is active in encouraging the return of nationals residing in neighbouring countries. The embassy summed up the Governments message to its citizens outside the country as “if you want to come home we will help you”. It was considered that this offer would apply to all but a very tiny group of Rwandans such as the former king, and that all returnees are provided with a modest resettlement package to assist their reintegration into society.

420. The Catholic Peace and Justice Commission (CPJC) also commented that the Rwandan Government is formally committed to the full reintegration of returning refugees. The same source also made reference to the Government's scheme to re-house many returning refugees in newly purpose built villages called *Imidugudu*. In these villages the Government promises there will be electricity, running water, sanitation facilities etc. However, due to a shortage of money there are many such *Imidugudu*, which do not have the promised facilities. Nsenga emphasised that the "villagisation-policy" (*Imidugudu*) in Rwanda did not destroy the agricultural sector or put a halt to agricultural production.

421. A western embassy (B) explained that the Government's attitude towards those individuals unwilling to return to Rwanda has also changed. The source defined their previous position as "everyone home, by force if necessary" but stated that the message to these people is today is "if you want to live outside Rwanda fine, but go to the consulate, get a passport and be an expatriate, not a refugee".

422. In connection with the personal experience of the above mentioned source regarding dealings with Rwandans returning from the DRC following the breaking of refugee camps across the border, the source recalled that many said they would have returned much earlier had they been aware of the situation. Many of these people had believed that the RPF murdered everyone when they took power and the country would remain unsafe as long as they were in control. After six months living in rehabilitation camps these people are now living in villages in Rwanda.

423. A western embassy in Kigali (A) explained that the Campes de Solidaritaire have been established by the Ministry of Peace and National Unity. There are separate camps for returning refugees and ex-FAR soldiers as well as for students. It was stated that the camps were quite military in character. After ex-FAR soldiers had attended the camps they would be free to join the RPA. There was no evidence of torture at these camps and the camps were more a form of ideological training. The embassy felt that a positive aspect of these camps was that they stimulated some political debate. However, the embassy also commented that due to the culture of obedience, which exists in Rwanda today there is no way someone could refuse to go to the camps.

424. In a press release dated June 2001 the Rwandan opposition group RDR (see section 1.3) said it would be risky for Rwandan refugees in the DRC to return home, stating that the problem of the Interahamwe militia accused of carrying out the 1994 genocide and former ex-FAR was "fabricated". RDR added that the Rwandan Government's campaign "based on the ex-FAR and Interahamwe" is a "smokescreen to annihilate any opposition to the regime".<sup>105</sup>

425. According to BBC, rebels of the "Rwandan Liberation Democratic Forces" stated that they were seeking dialogue with the Rwandan Government before they could eventually return home. A spokesman for the 3,000 rebels being prepared by the DRC Government for their eventual repatriation said that a dialogue between them and the Rwandan authorities needs to take place before they can return home. The Hutu rebels had agreed to give up their arms as a goodwill gesture to Rwandan authorities. The fighters were at two camps at Kitona and Kamina.<sup>106</sup>

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<sup>105</sup> IRIN, Nairobi, 25 June 2001.

<sup>106</sup> IRIN, Nairobi, 4 September 2001.

### 9.3 Failed asylum seekers

426. Nsenga advised that the Ministry of Local Affairs is responsible for the reception of failed asylum seekers that are being returned or are returning to Rwanda. He emphasised the fact that where a Rwandan citizen has applied for asylum abroad and by this may have discredited the Rwandan Government, this would not affect such a person's situation upon his return to Rwanda.

427. Rutikanga stated that even if the authorities are aware that a returning individual has claimed asylum whilst outside Rwanda this will not result in them being treated any differently to others returning to the country after a prolonged period. He acknowledged that for some, the motivation for seeking asylum overseas is purely economic. He confirmed that innocent Rwandans who went abroad to "chance their luck" would be treated no differently to nationals who had been abroad for work or study. He added that those who departed illegally or have other cases to answer will answer the cases and then be integrated into society.

428. A western embassy in Kigali (E) advised that since mid 2001 it had been aware of plans for the escorted return of two Rwandan nationals who had been refused asylum in Western Europe. However, the arrangements were cancelled at short notice and the source did not know why. Had the returns taken place the returnees would have been escorted by the authorities of the European country concerned to the Rwandan Immigration arrivals desk where their documents would have been handed to the Immigration Official on duty. The source was convinced that neither returnee would have encountered any problem by virtue of the fact they had been subject to an escorted return.

### 9.4 Voluntary returnees

429. According to a HRW report from April 2000, Tutsi, who have returned from exile in Burundi and the DRC, have found their hopes for rapid success blocked by the predominance of those who returned from Uganda. Some Tutsi soldiers of the RPA, both survivors of the genocide and those from Burundi and the DRC, have told HRW that they have no wish to fight the war in the DRC. They want that conflict settled by negotiations, even if this means coming to terms with the insurgents.<sup>107</sup>

430. A representative of a human rights organisation in Kigali told the delegation that for many of those who fled Rwanda after the genocide the greatest fear is being imprisoned if they return to Rwanda. The source considered it possible that some may be imprisoned but the situation will vary considerably from region to region in Rwanda. It was added that even if a person prefers to stay in another region than his or her home area such a person would always be considered as being affiliated with their area of origin.

431. The above mentioned source explained that it has been difficult for the Rwandan Government to track all *génocidaires*, and that most of those who planned and were responsible for the genocide escaped the country. In most areas of Rwanda there was a small group of people who planned and started the genocide. In this way it was possible to mobilise large groups of people to commit the

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<sup>107</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, The "Ingabo Z'umwami" or Army of the King, Volume 12, Number 1 (A), April 2000.

genocide within in a very short time. According to the source this system of mobilisation was unique to Rwanda.

432. The same source explained that suspicion prevails in large areas of the country and that the Government is still arresting persons who are suspected of being *génocidaires*. It was added that a large number of detainees still are seeking the assistance of the representative's human rights organisation. Still people are fleeing Rwanda because they fear that they might be arrested on the grounds that they are suspected of having participated in the genocide.

### **9.5 Reclaiming of former assets by returnees**

433. Nsenga informed the delegation that a person who returns from abroad and wishes to reclaim his former assets in Rwanda will be requested to contact the local authorities in the area from where he originated. It is also possible to contact the Ministry of Internal Affairs directly.

434. Nsenga stated that he did not know of any example where a person who has attempted to reclaim his former property or assets has not been successful. The property issue is an important task for the local authorities and they deal with such cases routinely. Even children of *génocidaires* have the right to reclaim their former parents' assets and they do receive such assets. Nsenga added that there have been no serious incidents such as revenge killings and the like in respect to the question of reclaims by former owners, but he admitted that tensions have surfaced in connection with the question of ownership. There have been cases where the police have had to remove families or persons from a stolen property by force.

435. CPJC confirmed that the Government is committed to the return of property to returning refugees. However, according to the same source and also a western embassy in Kigali (E), it is not always the case that returning refugees have had their property returned to them. Both sources also commented on the difficulties involved in this issue, i.e. that many of the refugees had been outside the country for several years and their properties had been occupied for a long period of time.

436. A western embassy in Kigali (D) also stated that the issue of land is the cause of a lot of problems and can be the reason why individuals choose to flee the country, especially where the military are involved in the dispute. The source explained the complexity of a situation in which people that fled the country long before 1994 have been returning to reclaim land as well as those who fled at the time of the genocide. The source gave the example of a family who fled in 1994 returning to find that a family that had fled in 1959 had already occupied their land.

437. The same source commented that this kind of situation leads to many disagreements, threats and incidents of corruption of judges presiding over particular disputes. The source questioned whether justice actually comes into play in some cases and remarked that these difficulties may result in a person deciding to leave the country.

### **9.6 Embarkation controls**

438. HRW reported in April 2000 that Government officials and leaders of the RPF have for some time shown their displeasure with the flight of Rwandans from the country, particularly when those fleeing are prominent or important politicians, journalists, soldiers or former soldiers. In some cases

those who have assisted others to flee are being threatened, harassed, or imprisoned. After Sebarenzi<sup>108</sup> fled the country on 22 January 2000 his brother was arrested and detained for a day.<sup>109</sup>

439. Another well-known case of arrest of persons who have assisted others to flee the country dates from August 1999 when a widely respected Tutsi businessman, Daniel Ngenzi, was arrested and held by the DMI. According to HRW Ngenzi had been arrested supposedly because he had driven a young soldier across the border to the airport in Bujumbura, Burundi. He was also charged with having helped a young man, a former soldier, to make preparations to leave the country in 1998. HRW reported in April 2000 that seven months after his arrest Ngenzi was still in jail and that he may face charges of having recruited soldiers for the Army of the King.

440. However, a western embassy in Kigali (D) suggested to the delegation that the Government now encourages political opponents to leave the country where they pose a far lesser threat to the current regime. Reyntjens is not in agreement with this, and he explained to the delegation that President Kagame and the Government actively tries to hinder the departure from Rwanda of political opponents.

441. Rutikanga commented that it would be “almost impossible” for an individual to make an illegal departure through Kanombe international airport in Kigali. He stated that the word amongst those who wished to leave the country with forged documentation was “do not try to leave through Kigali; try Kampala or Bujumbura”. He added that when individuals attempting to depart through Kanombe international airport with forged documents were apprehended they frequently remarked that they had been warned not to attempt leaving Rwanda by this route. Finally he claimed that corruption at the airport was not an issue and stated that he was not aware of a single case in the operations of airport security including arrival and departure controls.

442. A former prominent human rights activist in Kigali also informed the delegation that a person who is wanted by the authorities would not have a great chance of leaving the country via Kanombe international airport. However, whilst the source considered that it is very difficult to bribe the airport police it was stated that it is not impossible. The source described the police as very efficient and well trained. It was added that if a person is wanted in Rwanda the airport police would have a record of this.

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<sup>108</sup> According to HRW (April 2000) Sebarenzi was accused of being associated with “royalists”.

<sup>109</sup> Human Rights Watch, Rwanda: The Search for Security and Human Rights Abuses, Stopping the Flight Abroad, Volume 12, Number 1 (A), April 2000.

## 10. The International Criminal Tribunal for Rwanda (ICTR)

### 10.1 Background of the ICTR

443. The International Criminal Tribunal for Rwanda (ICTR) was established in 1994 to try cases of those accused of acts of genocide and serious violations of international humanitarian law, which were committed in Rwanda between 1<sup>st</sup> January and 31<sup>st</sup> December 1994. The provisions for establishing the ICTR were set out in the UN Security Council Resolution 955, on 8<sup>th</sup> November 1994. Resolution 997 stated that the Tribunal would sit at Arusha, in Tanzania.<sup>110</sup>

444. The ICTR consists of nine judges. Three judges sit in each of the three trial chambers. The ICTR issued its first indictment on 28<sup>th</sup> November 1994 and since this date the ICTR have made steady progress towards the fulfilment of its mandate. To date over seventy suspects have been indicted with over fifty of those having been transferred to the ICTR detention facility in Arusha.<sup>111</sup>

445. Those convicted by the ICTR include Jean Kambanda, the Prime Minister of the Rwandan Government during the genocide. This conviction set a precedent, as Kambanda was the first former Head of State to be indicted and subsequently convicted for genocide. His conviction made it clear that former Heads of State could be tried with war crimes and this was seen as influential in creating the conditions where cases could be brought against people such as Slobodan Milosovic.<sup>112</sup>

### 10.2 Treatment of persons extradited to the ICTR

446. Kingsley Moghalu, Legal Advisor and Spokesman for the International Criminal Tribunal for Rwanda, ICTR, Arusha, explained that the Detention Facility at the ICTR in Arusha consisted of 56 cells and a small number of annexes. At the time the delegation visited the Detention Facility was at full capacity with a total of 59 detainees; an additional person was being held in Holland. Work is in progress to build 22 additional cells.

447. The Detention Facility is specially designed and is housed within the compound of the Tanzanian prison in Arusha. The high security facility, which is built to international standards, is the first ever to have been built and managed by the United Nations. It is regularly inspected and the ICRC, which has consistently commended the high standards that are maintained, visits the detainees.<sup>113</sup>

448. Any individual convicted by the ICTR will serve their sentence in a country other than Rwanda or Tanzania. At present Mali is the only country that persons convicted have been sent to although the ICTR has agreements to send persons convicted to Benin where detention facilities are being constructed and Swaziland where the security of existing facilities is being upgraded. In all cases the ICTR must be satisfied that satisfactory conditions for convicted persons are in place.

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<sup>110</sup> Nations Unies, Tribunal Pénal International pour le Rwanda, n.d., Arusha.

<sup>111</sup> ICTR, Achievements of the ICTR, n.d.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.



Convicted prisoners must each have their own cell with maximum security and minimum human rights standard met.

### **10.3 Treatment of witnesses at the ICTR**

449. Moghalu advised the delegation that both defence and prosecution witnesses were entitled to exactly the same support from the tribunals. This included accommodation (if needed) at a Tribunal ‘safe-house’. Counselling services are also available to the witnesses. Witnesses are provided with transportation to the ICTR, receive free medical treatment and are also paid a nominal fee for attending the tribunal. The Witness Protection Department (WPD) looks after both defence and prosecution witnesses. WPD’s mandate is to present the witness in court in the best possible condition.

450. Moghalu stated that it was very rare that defence witnesses would come from within Rwanda. He also commented that most prosecution witnesses came from within Rwanda. Approximately 85% of prosecution witnesses come from Rwanda, whilst more than 95% of defence witnesses come from outside Rwanda. After giving evidence witnesses are normally returned to the country they came from. The WPD also plays a role in the post-trial welfare of witnesses. However, Moghalu explained that no countries have signed an agreement regarding a “witness relocation programme”.

451. Moghalu explained that some of the problems experienced by witnesses stemmed from the fact that they did not fully understand the judicial process of the Tribunal. He stated that many witnesses felt that they were being harassed during cross-examination, as they had not experienced this type of questioning before.

452. In response to allegations from Ibuka (genocide survivors organisation) regarding the alleged mistreatment of prosecution witnesses Moghalu explained that the Registrar of the ICTR, Mr Adama Dieng, had proposed the establishment of a Joint Committee with the Government of Rwanda to verify these allegations. The proposals were set out in a letter dated 4<sup>th</sup> March 2002 and sent to the Rwandan Minister for Justice and Institutional Relations, Jean de Dieu Mucyo.

453. The proposed Committee’s tasks are<sup>114</sup>:

- To draw up a verification programme in accordance with the agreed terms of reference and within the prescribed time limit;
- To examine the content of each allegation and to ascertain the truth of the information provided;
- To go where necessary or to hear any witness whose statement will have been submitted to the Rwandan Ministry of Justice;
- To gather all material or other evidence relating to the allegations; and
- To produce a detailed report to be submitted at the end of the prescribed time limit.

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<sup>114</sup> ICTR, Tribunal Proposes Joint Committee with Government of Rwanda to Verify Allegations of Mistreatment of Witnesses from Rwanda, ICTR/INFO-9-3-08.EN, Arusha, 13 March 2002.

454. However, on 18 April 2002 it was reported that Dieng had withdrawn the above proposal following a disagreement with the Rwandan authorities over the commission's mandate.<sup>115</sup> This was linked to the Government of Rwanda's contention that the alleged mistreatment of witnesses the commission should investigate allegations of genocide suspects working within the ICTR. However, Dieng reaffirmed the commitment of the ICTR to spare no effort in shedding light on the allegations of witnesses. He also stated "the tribunal is committed to making certain, as always, witnesses called to testify in Rwanda for the prosecution of the defence will not suffer any mistreatment, and that their welfare and security will continue to be assured in the interest of proper administration and justice."

#### ***10.4 Communication arrangements between ICTR and third countries***

455. The UNHCR stated that it is possible for third country authorities to communicate directly with the Office of the Prosecutor (OTP). The OTP are grateful for any information regarding possible suspects.

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<sup>115</sup> IRIN, Nairobi, 18 April 2002.

## 11. Persons, organisations and authorities consulted

Akyeampong, Victoria, Head of Desk (a.i), Great Lakes Operation, United Nations High Commissioner for Refugees (UNHCR), Geneva.

Bladon, Rupert, Governance Field Manager, Department for International Development (DFID), Kigali.

Capps, Ron, Political Officer, Embassy of the United States, Kigali.

Dirongué-Atangana, Angele, Senior Legal Advisor, African Bureau, UNHCR, Geneva.

Fisher, Tim, Political Officer, British Embassy, Kigali.

Former prominent human rights activist in Kigali.

Gatete, Cyprien, Chief Superintendent, Commandant National Police Academy, Rwanda National Police Service, Ministry of Internal Affairs, Ruhengeri.

Grundies, Wolf, First Secretary, Embassy of Germany, Kigali.

Habimana, Aloys, Project Co-ordinator, Ligue pour la Promotion des Droits de l'Homme au Rwanda/League for the Promotion of Human Rights in Rwanda (LIPRODHOR), Kigali.

Huyghebart, Peter, First Secretary, Embassy of Belgium, Kigali.

Kolini, Emmanuel, The Most Reverend, Archbishop of the Anglican Church & National Chairman of the Commission for HIV, Kigali.

Lange, Jeroen de, First Secretary, Royal Netherlands Embassy, Kigali.

Mbonigaba, Ismaïl, Chief Editor, *Umuseso* and Acting Director, Rwanda Independent Media Group (RIMEG), Kigali.

Moghalu, Kingsley, Legal Advisor and Spokesman for the International Criminal Tribunal for Rwanda (ICTR), ICTR, Arusha.

Mundia, Ocsar, Desk Officer, Great Lakes Operation, UNHCR, Geneva.

Munyakazi, Leopold, Professor, Kigali Institute of Education, member of ADL, Kigali.

Ndahiro, Tom, Commissioner, National Human Rights Commission (NHRC)

Nsenga, Zac, Dr., Secretary General, Ministry of Internal Affairs, Kigali.

Ntakirutinka, Charles, Secretary-General, Parti Démocratique pour le Renouveau-UBUYANJA (PDR), Kigali.

Ntampaka, Charles, Professor, Editor, *Dialogue*, Brussels.

Representative of Catholic Peace & Justice Commission (CPJC), Kigali.

Reyntjens, Filip, Professor, Law and Politics, Institute of Development Policy and Management, University of Antwerp, Antwerp.

Rose, Tore, Resident Representative and Resident Coordinator of the United Nations Development Programme (UNDP), Kigali.

Rutikanga, Rogers, Captain, Chief Security Officer, Regie des Aeroports/Rwanda Airport Authorities, Kigali.

Twagiramungu, Noël, Secrétaire Exécutif, Ligue des Droits de la Personne dans la Région des Grand Lacs/League for the Rights of People in the Great Lakes Region (LDGL), Kigali.

Waldorf, Lars, Researcher, Human Rights Watch (HRW), Africa Division, Kigali.

Wavre, Rolin, Head of Delegation, International Committee of the Red Cross (ICRC), Kigali.

Weber, Daniel, Lawyer during three years Kigali.

Zabulon, Sebasaza, Directeur Adjoint, Chargé de l'Administration, Gitarama Central Prison, Gitarama.

## 12. Acronyms

AAPD – Asylum and Appeals Policy Directorate

ADL – Association Rwandaise pour la Défense des Droits de la Personne et des Libertés Publiques

AI – Amnesty International

ALIR – Armée pour la Libération du Rwanda/Army for the Liberation of Rwanda

AMI – Association Modeste et Innocent

AP – Associated Press

ARDHO – Association Rwandaise pour la Défense des Droits de l’Homme

ARENA – Alliance Rwandaise pour la Renaissance de la Nation/Rwandan Alliance for the Renaissance of the Nation.

ASF – Avocats sans Frontières

AVP – Association des Volontaires pour la Paix

BBC – British Broadcasting Corporation

CID – Central Intelligence Department

CIPU – Country Information and Policy Unit

CLADHO – Collectif des Ligues et Association de Défense des Droits de l’Homme

CNLS – Commission Nationale de Lutte Contre la VIH/SIDA

CPJC – Catholic Peace and Justice Commission

DFID – Department for International Development

DIS – Danish Immigration Service

DMI – Directorate of Military Intelligence

DRC – Democratic Republic of Congo

ELR – Exceptional Leave to Remain

EU – European Union

Ex-FAR – Ex-Forces Armées Rwandaises

GNP – Gross National Product

GNU – Government of National Unity

HRW – Human Rights Watch

ICD – Integrated Caseworker Directorate

ICG – International Crisis Group

ICRC – International Committee of the Red Cross

ICTR – International Criminal Tribunal for Rwanda

IND – Immigration and Nationality Directorate

IODA – International and Organisational Development and Assessment

IRCT – International Rehabilitation Council for Torture Victims

IRIN – Integrated Regional Information Network

LCRC – Legal and Constitutional Review Commission

LDF – Local Defence Forces

LDGL – Ligue des Droits de la Personne dans la Région des Grand Lacs/League for the Rights of People in the Great Lakes Region

LIPRODHOR – Ligue pour la Promotion des Droits de l’Homme au Rwanda/League for the Promotion of Human Rights in Rwanda

MDR – Mouvement Démocratique Républicain/Democratic Republican Movement

MRNDD – Mouvement Révolutionnaire National pour la Démocratie et le Développement

NGO – Non-Governmental Organisation

NHCR – National Human Rights Commission

OTP – Office of the Prosecutor

PCD – Parti Centriste Démocrate

PDC - Parti Démocrate Chrétien

PDI – Parti Démocratique Islamique

PDR – Parti Démocratique pour le Renouveau-UBUYANJA/Democratic Party for Renewal-UBUYANJA

PL – Parti Libéral

PSD – Parti Social Démocrate

PSR – Parti Socialiste Rwandais

RCD-Goma – Rassemblement Congolais pour la Démocratie-Goma/Congolese Rally for Democracy-Goma

RDR – Rassemblement pour la Démocratie et le Retour des Réfugiés

RIMEG – Rwanda Independent Media Group

RJA – Rwandan Journalists Association

RNA – Rwanda News Agency

RNP – Rwandan National Police

RPA – Rwandan Patriotic Army

RPF – Rwandan Patriotic Front

RTLMC – Radio-télévision Libre des Mille Collines

TNA – Transitional National Assembly

TRAC – Treatment and Research Aid Centre

UDPR – Union Démocratique du Peuple Rwandais

UK – United Kingdom

UN – United Nations

UNDP – United Nations Development Programme

UNHCR – United Nations High Commissioner for Refugees

UNICEF – United Nations Children’s Fund

US – United States

WPD – Witness Protection Department

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## 14. Annexes

1. Statistical table: Rwandan asylum applications lodged within selected European countries during 2000 and 2001.
2. Map of Rwanda.

**Annex 1: Statistical table: Rwandan asylum applications lodged within selected European Countries during 2000 and 2001.**

**Rwandan Asylum Applications in selected European countries 2000-2001**

	<b>2000</b>	<b>2001</b>	<b>% Change</b>
Austria	13	8	-38.5%
Belgium	866	617	-28.8%
	35	62	+77.1%
	12	1	-91.7%
	276	283	+2.5%
Germany	69	54	-21.7%
Greece	13	9	-30.8%
Ireland	22	27	+22.7%
Netherlands	334	222	-33.5%
Norway	7	15	+114.3%
Sweden	8	12	+50%
United Kingdom	760	540	-28.9%
<b>Total EU</b>	<b>2,418</b>	<b>1,850</b>	<b>-23.5%</b>

Sources: Governments, UNHCR. Compiled by UNHCR

Annex 2: Map over Rwanda

