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**NOTE**

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| from:    | Netherlands delegation                   |
| to:      | CIREA                                    |
| Subject: | Country report on Rwanda (December 2001) |

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Delegations will find attached the above report <sup>1</sup>, supplied by the Netherlands delegation.

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<sup>1</sup> Translated into English only. May be released to the public.

**Rwanda – December 2001**

Situation for asylum policy purposes

|           |   |           |
|-----------|---|-----------|
| <b>1.</b> | <b>Introduction.....</b>                    | <b>5</b>  |
| <b>2.</b> | <b>Country information .....</b>            | <b>6</b>  |
| 2.1.      | Basic details .....                         | 6         |
| 2.1.1.    | Country and people .....                    | 6         |
| 2.1.2.    | History .....                               | 6         |
| 2.2.      | System of government.....                   | 27        |
| 2.3.      | Political developments .....                | 28        |
| 2.4.      | Security situation .....                    | 44        |
| 2.5.      | Socio-economic developments .....           | 51        |
| 2.6.      | Conclusions .....                           | 53        |
| <b>3.</b> | <b>Human rights.....</b>                    | <b>55</b> |
| 3.1.      | Safeguards .....                            | 55        |
| 3.1.1.    | Constitution .....                          | 55        |
| 3.1.2.    | Conventions .....                           | 56        |
| 3.2.      | Monitoring .....                            | 56        |
| 3.3.      | Observance and violations.....              | 59        |
| 3.3.1.    | Freedom of expression .....                 | 60        |
| 3.3.2.    | Freedom of association and assembly.....    | 61        |
| 3.3.3.    | Freedom of religion.....                    | 64        |
| 3.3.4.    | Freedom of movement .....                   | 65        |
| 3.3.5.    | Judicial process .....                      | 67        |
| 3.3.6.    | Arrest and detention .....                  | 71        |
| 3.3.7.    | Ill-treatment and torture.....              | 74        |
| 3.3.8.    | Disappearances .....                        | 74        |
| 3.3.9.    | Extrajudicial executions and killings ..... | 75        |
| 3.3.10.   | Capital punishment .....                    | 75        |
| 3.4.      | Position of specific groups .....           | 75        |
| 3.4.1.    | Hutus and Tutsis .....                      | 75        |
| 3.4.2.    | Twas .....                                  | 77        |
| 3.4.3.    | Mixed-race individuals.....                 | 78        |
| 3.4.4.    | Women .....                                 | 78        |
| 3.4.5.    | Minors .....                                | 81        |
| 3.4.6.    | Opponents of the government.....            | 85        |
| 3.4.7.    | Conscripts .....                            | 86        |
| 3.5.      | Conclusions .....                           | 87        |

|           |  |           |
|-----------|--|-----------|
| <b>4.</b> | <b>Refugees and displaced persons.....</b> | <b>89</b> |
| 4.1.      | Actual resettlement areas.....             | 89        |
| 4.2.      | Migration flows.....                       | 90        |
| 4.3.      | International organisations' work.....     | 92        |
| 4.4.      | Other EU countries' policy .....           | 92        |
| 4.5.      | Conclusions .....                          | 93        |
| <b>5.</b> | <b>Summing up .....</b>                    | <b>95</b> |

**ANNEXES:**

|                |  |            |
|----------------|--|------------|
| <b>Annex 1</b> | <b>Bibliography .....</b>                      | <b>97</b>  |
| <b>Annex 2</b> | <b>Political parties.....</b>                  | <b>101</b> |
| <b>Annex 3</b> | <b>Administrative structure of Rwanda.....</b> | <b>103</b> |
| <b>Annex 4</b> | <b>Map of Rwanda .....</b>                     | <b>104</b> |
| <b>Annex 5</b> | <b>Hutus and Tutsis .....</b>                  | <b>105</b> |

## **1. Introduction**

This report describes the present situation in Rwanda and recent developments from June 2000 to late November 2001, where relevant in assessing asylum applications and ascertaining the scope for repatriation of rejected asylum seekers from Rwanda. It supplements the official report issued on 1 August 2000 under reference DPC/AM-683138/00.

The report begins, in section 2, with a description of the country, its population and its history, followed by a survey of recent political developments, the security situation and the socio-economic background to the present situation. That section also considers the reconciliation process in Rwanda.

Section 3 discusses the current human rights situation in Rwanda, including the position of some specific groups.

Section 4 then describes actual resettlement areas as well as existing migration flows. It also gives a brief account of international organisations' work in Rwanda and outlines the policy of some European Union countries towards asylum seekers from Rwanda.

The report ends with a summing up in section 5 and an annexed bibliography. Other annexes deal with political parties, administrative structure and the origins of the Hutu-Tutsi divide in Rwanda, as well as providing a map of the country.

In drawing up the report, use has been made of confidential reporting by the Netherlands' embassies in the region and in other western countries, as well as reporting by other EU countries, UN agencies, non-governmental organisations (NGOs) and the media.

For a list of public sources, see the bibliography.

## **2. Country information**

### **2.1. Basic details**

#### **2.1.1. Country and people**

Rwanda is a small, but densely populated republic. An area of just 26 338 km<sup>2</sup> is home to an estimated population of 8,3 million (2001), 500 000 of them living in the capital, Kigali (1997)<sup>1</sup>. In 1994 political and ethnic violence left some 800 000 people dead and prompted an estimated 2 million to flee the country. Most of the 1994 refugees have since returned to Rwanda, as have around 700 000 Tutsis who had left Rwanda for Uganda over the decades prior to 1994. Hutus make up about 85% of the population, Tutsis about 14% and Twas about 1%. The genocide has made little difference to those proportions.

The official languages are Kinyarwanda (a Bantu language related to Kirundi, the language spoken in Burundi), French and English (spoken mainly by Tutsi returnees from Uganda).

Most of Rwanda is hilly, with the hills becoming more mountainous in the north-west, towards the Virunga mountains. The country lies just south of the equator and has a tropical climate. The rainy season lasts from mid-October to early December, with the main harvest following in January. It then remains dry until minor rainfall in March and April, followed by a second harvest, in July and August.

About 75% of land is suitable for agricultural use. Much of the land is overworked and soil exhaustion has been a problem for decades<sup>2</sup>.

#### **2.1.2. History**

This section gives an account of the country's history up to mid-2000. More recent developments are discussed in section 2.3 (political developments).

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<sup>1</sup> Economist Intelligence Unit (EIU), Rwanda Country Profile 1999-2000 (London, 1999), p. 4.

<sup>2</sup> Ibid.

### *Summary*

In a nutshell, the picture to emerge from the history of the second half of the last century is as follows. On a number of occasions during that time, the power struggle engaged in mainly along ethnic lines between Tutsis and Hutus<sup>1</sup> resulted in fierce clashes between the two communities, accompanied by mass killings and large numbers of refugees, chiefly Tutsis, fleeing to neighbouring Uganda, Tanzania, Burundi and what was then Zaire. The main clashes took place in 1959-1960, 1963-1965 and 1973. In 1990 Tutsi refugees, under the banner of the Rwandan Patriotic Front (RPF), invaded Rwanda from Uganda in an attempt to seize power. Power-sharing negotiations were under way when the incumbent President, a Hutu, was killed in 1994, under circumstances never satisfactorily cleared up, and Hutu extremist groups thereupon murdered hundreds of thousands (mostly Tutsis but also moderate Hutus) in a genocide. RPF forces eventually brought the Hutu extremist groups under control. Around 2 million people, mostly Hutus, fled to the Democratic Republic of the Congo (DRC). Power has since been held by a transitional government officially composed of both Hutu and Tutsi parties.

Over the years following 1994, the refugees have largely returned to Rwanda. Since the second rebellion in the DRC, in August 1998, in which a coalition of Congolese rebel groups with Rwandan and Ugandan backing attempted to overthrow President Kabila's regime, the conflict between the Rwandan Patriotic Army (RPA)<sup>2</sup> and Hutu extremist groups has shifted to the DRC.

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<sup>1</sup> There is no consensus within Rwanda or elsewhere as to the origin and significance of the distinction between Hutus and Tutsis. For some views on this, see Annex 5.

<sup>2</sup> Since the RPF took power, its military wing has been named the RPA.

The following subsections elaborate upon this historical picture in more detail, distinguishing between six periods:

- the pre-colonial era;
- the colonial era, when the Tutsi minority gained increasing control of domestic administration;
- 1961-July 1994: a period of independence under a Hutu President at the head of a Hutu-dominated government (1961-April 1994), followed by the crisis from April to July 1994;
- July 1994-late 1996: a transitional government comprising a coalition dominated by the Rwandan Patriotic Front (RPF), up to the time of the first rebellion in the DRC;
- October 1996-August 1998: the first rebellion in the DRC;
- August 1998-June 2000: the second rebellion in the DRC.

Brief accounts are given, lastly, of the genocide trials and the role of the international community.

### *Pre-colonial era*<sup>1</sup>

The history of human settlement in Rwanda (and Burundi) began with the Twa hunter-gatherers, who have inhabited the tropical rainforests for thousands of years. Between the fourth and the seventh century, a group of Bantu clans settled in the region, clearing the rainforest to make way for cultivation. The Tutsis are believed by some historians to have emerged from that group as a cattle-owning class. Other historians, however, trace the Tutsis to a different origin, arriving as pastoralists to settle in a predominantly agrarian Hutu society, probably around the eleventh and twelfth centuries.

A Tutsi king began uniting Tutsi areas in the fifteenth century and a long period of gradual expansion of the monarchy then ensued, until the last of the Tutsi areas was brought under royal control in 1895 by the king at the time. However, neither he nor his predecessors enjoyed any great influence in the north, where traditional Hutu leaders retained their independence.

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<sup>1</sup> EIU, Rwanda Country Profile 1999-2000 (1999).



### *Colonial era*<sup>1</sup>

In colonial times, Rwanda and Burundi became part of German East Africa (in 1899), being ruled by Germany up until its defeat in the First World War. From 1920, as part of Ruanda-Urundi, Rwanda was administered by Belgium under a League of Nations mandate and later as a United Nations (UN) trust territory. In the 1920s and 1930s, the colonial authorities introduced large-scale coffee-growing and imposed cash tax collection. They also streamlined local government. In 1926 they merged the traditionally separate land, cattle and army chiefdoms on each "hill" (a traditional administrative unit in Rwanda) into one central post, almost invariably held by a Tutsi, thereby greatly increasing Tutsi political control at local level and hence Hutu resentment.

Beginning in 1950, limited democratic reforms were tried out. In 1959 the then king (a Tutsi) died and was succeeded by Kigeri V. In the same year, monarchists founded the *Union Nationale Rwandaise* [Rwandan National Union], while a Hutu leader established the *Mouvement Démocratique Républicain-PARMEHUTU*<sup>2</sup> [Republican Democratic Movement-Hutu People's Emancipation Party](MDR-P). Those political changes brought tensions resulting in violence, which caused thousands of mostly Tutsi casualties and the flight of around 300 000 Tutsis to Burundi and Uganda. The MDR-P went on to win the local elections in 1960, which led to further politically orchestrated ethnic killings and more Tutsi refugees.

### *1961-July 1994*<sup>3</sup>

In 1961 the MDR-P toppled the monarchy<sup>4</sup> and in 1962 the country became a fully independent republic, with Grégoire Kayibanda as its first President. Parliamentary elections held in 1963 were won by the MDR-P.

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<sup>1</sup> Ibid. and [Africa South of the Sahara 2000](#).

<sup>2</sup> PARMEHUTU = *Parti de l'Émancipation du Peuple Hutu*.

<sup>3</sup> Same as otherwise indicated, EIU, [Rwanda Country Profile 1999-2000](#), and [Africa South of the Sahara 2000](#).

<sup>4</sup> King Kigeri V fled the country (ending up in the USA).

From 1963 to 1965, incursions by Tutsi refugees sporadically sparked off serious violence between the Hutu majority and their former Tutsi rulers. At the same time, the state increasingly came to be controlled by Hutus from the central province of Gitarama, causing friction between them and traditional Hutu leaders in the north. In 1973 the army chief of staff, Major General Juvénal Habyarimana, whose father-in-law was a Hutu leader from Gisenyi in the north, staged a successful coup.

The coup brought further political violence, leaving around 100 000 dead. These included prominent MDR-P supporters, although most were ordinary Tutsis. Tens of thousands of Tutsis took refuge in Burundi and Uganda.

Habyarimana dissolved parliament, banned the MDR-P and founded the *Mouvement Révolutionnaire National pour le Développement* [National Revolutionary Development Movement] (MRND). In 1978 Habyarimana introduced a one-party system of civilian rule and in 1981 he established a legislature called the *Conseil National de Développement* [National Development Council] (CND). Power remained in the hands of Habyarimana and the MRND.

The late 1980s saw growing calls for democratisation, partly stemming from public discontent over the government's austerity policy. In 1989 public revenue had plummeted as a result of agricultural problems (soil depletion and falling world coffee prices), thus making cutbacks necessary. In July 1990 Habyarimana acknowledged the need for reform, with a national commission being set up for the purpose in September 1990.

In October 1990 several thousand guerrillas invaded Rwanda from Uganda. Many of them were Rwandan Tutsis living in Uganda, who had fled from Rwanda in the 1960s and 1970s and since joined the National Resistance Army (NRA) of the Ugandan President, Yoweri Museveni. They styled themselves the Rwandan Patriotic Front (RPF), or *Inkotanyi*. Within a month, their leader was killed and succeeded by Major General Paul Kagame. The conflict stretched on into 1991 and 1992, with the RPF gaining control of large swathes of territory in the northern provinces of Ruhengeri and Byumba. Both sides sustained thousands of casualties, while hundreds of thousands of Hutus took refuge in government-controlled territory. In 1993 the RPF advanced on Kigali, being brought to a halt less than 70 km from the city.

The RPF invasion helped speed up the political reform process, while the international community also exerted pressure to go through with that process. In 1991 the Rwandan government bowed to pressure and allowed other parties to be established. Dozens sprang up, including a revived MDR. In mid-1992 a broadly based government including four opposition parties <sup>1</sup> was formed. The new Prime Minister came from the MDR, but the MRND remained in the majority (albeit as renamed in April 1991: *Mouvement Républicain National pour la Démocratie et le Développement* [National Republican Democracy and Development Movement] (MRNDD)), while Habyarimana remained President. Growing prospects of agreement in negotiations with the RPF generated political tensions within the coalition.

In August 1993 negotiations between the government and the RPF brought agreement on a number of points at Arusha (Tanzania). The agreement included provision for the formation of a transitional government, with key posts going to RPF members, and for the Rwandan army and the RPF to establish a new national army in roughly equal proportions. The RPF was to station 600 troops in Kigali (which it did in December 1993).

The security situation remained fragile, however, with violence breaking out in Kigali and Butare, and both sides pressed for UN assistance. On 5 October 1993 the UN approved the establishment of a 2 500-strong UN Assistance Mission to Rwanda (UNAMIR), whose tasks included monitoring observance of the ceasefire and helping to maintain security in Kigali.

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<sup>1</sup> The MDR (*Mouvement Démocratique Républicain*), the PL (*Parti Libéral*), the PSD (*Parti Social-Démocrate*) and the PDC (*Parti Démocratique Chrétien*).

Implementation of the Arusha agreement ran into delay, since it was unacceptable to powerful groups within the MRNDD, who feared a loss of influence and the possibility of facing prosecution. Not until 5 January 1994 was Habyarimana appointed President within the transitional government. Some MRNDD leaders set up the Hutu extremist *Coalition pour la Défense de la République* [Republican Defence Coalition] (CDR). Habyarimana did his utmost to secure the CDR's inclusion in the transitional government, but that option was rejected by all other parties. By April 1994, Habyarimana's opportunities to block the installation of a transitional government any longer were exhausted. On 6 April 1994 the aircraft on which Habyarimana was returning to Kigali, together with Burundi's President Ntaryamira, was shot down, killing all on board.

Over the months of negotiations, those around Habyarimana had begun plotting a new genocide. Although it has never been established who was responsible for killing the President, his death was certainly a prerequisite for the genocide plot to go ahead. On 7 April 1994, the day after his assassination, a start was made on the elimination of his political opponents (including moderate Hutus) and a genocide against Tutsis. Ten Belgian UNAMIR members were also killed. By 21 April 1994, an estimated 250 000 Tutsis had already been killed. Eventually, in the course of a few months, about two thirds (500 000) of the Tutsi community still living in Rwanda lost their lives. Moderate Hutus opposing the genocide were also killed, an estimated 200 000 of them. The two north-western provinces, Gisenyi and Ruhengeri, where Hutu extremists enjoyed considerable influence, saw relatively few massacres, as most Tutsis had already fled <sup>1</sup>.

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<sup>1</sup> Alan J. Kuperman, "Rwanda in Retrospect", *Foreign Affairs*, Volume 79, No 1, pp. 98-100. Estimates of the total number killed in the genocide vary widely, from 500 000 to 1 million. Most media sources put the figure at nearer to 500 000, whereas international NGOs which have conducted investigations in Rwanda put it at around 1 million (Jeremy Sarkin, "The necessity and challenges of establishing a Truth and Reconciliation Commission in Rwanda", *Human Rights Quarterly*, Volume 21, No 3 (August 1999), p. 767).

The genocide was orchestrated by those around the late President Habyarimana and had been prepared for since the early 1990s by means of a hate campaign directed against both Tutsis and Hutu political opponents, with the use of attacks (in part by armed youth wings of political parties, such as the *Interahamwe*, the militia of Habyarimana's MRNDD) and vitriolic propaganda (from sources including the newspaper *Kangura*<sup>1</sup> and *Radio-Télévision Libre des Mille Collines* [Thousand Hills Free Radio and Television Station] (RTL), set up in 1993). The decision to set the genocide in motion was taken by a small group of military officers, civil servants, politicians and business people<sup>2</sup>. That group gradually gained control of public life, in order to recruit accomplices in organising and carrying out the genocide. They began with national leaders and the presidential guard, going on to involve local military commanders and political and administrative leaders, then soldiers, police officers and the general public. In this way, many people were recruited, by dint of threats and promises, into militias such as the *Interahamwe* or into civilian self-defence groups. In practice, use was made of the (political, administrative and military) establishment in order to carry out the genocide<sup>3</sup>.

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<sup>1</sup> The proprietor and editor of *Kangura*, Hassan Ngeze, made use of it from the mid-1990s to disseminate messages of hatred. That Kinyarwanda-language newspaper was particularly popular and no doubt helped fuel hatred of Tutsis among Hutu extremists (see: African Rights, Rwanda: death, despair and defiance (London, 1995 revised edition), pp. 70-75).

<sup>2</sup> That small group was not made up entirely of Habyarimana's closest associates, also known as the *akazu* in Rwanda. The leaders of the conspiracy seem rather to have become somewhat more distant from Habyarimana, after previously having been close to him. They generally appear to have been closer to the other side of the *akazu*, namely associates of Habyarimana's wife and her brothers-in-law (see: Gérard Prunier, The Rwanda crisis 1959-1994, history of a genocide (London, 1995), p. 242).

<sup>3</sup> Human Rights Watch (HRW), Leave none to tell the story. Genocide in Rwanda (New York, 1999), pp. 3-10 and 222-237.

The UN Security Council had been informed of the genocide plans a few months earlier, but did not intervene. In April 1994 the UN withdrew all but 270 of its troops <sup>1</sup>. On 8 April 1994 a new government was formed, headed by Jean Kambanda as Prime Minister. The new government's legality was immediately disputed by the RPF and subsequently challenged by factions of the governing parties.

The RPF resumed its offensive and advanced on Kigali, reportedly engaging in reprisals against Hutu civilians along the way. The UN proved unable to mobilise sufficient troops to protect refugees. In June 1994 the French government then set in hand *Opération Turquoise* with the humanitarian aim of protecting refugees. In the south-western triangle of the country, the French created a temporary "safe area", in which refugees were in fact afforded protection, although the operation did have the effect of delaying the RPF's seizure of power. Through that area, in particular, some 2 million Hutus fled to (what was then) Zaire. Many of those guilty of genocide also managed to evade justice in that way.

On 19 July 1994 the RPF took power in Kigali. The takeover put a stop to the genocide, but not before an estimated 800 000 people had been killed and over 2 million Rwandans had fled to Zaire, Tanzania and Burundi.

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<sup>1</sup> An independent report, commissioned by Secretary-General Kofi Annan, on events leading up to the genocide was published in December 1999. It found that the United Nations had not done enough to avert or halt the genocide. Annan acknowledged that finding, on the UN's behalf, and expressed his remorse (SG/SM/7263 AFR/196).

Pastor Bizimungu, a Hutu and prominent member of the RPF <sup>1</sup>, was appointed President. A new government of national unity was formed, with Faustin Twagiramungu (MDR) as Prime Minister and a majority of portfolios going to RPF members. Paul Kagame was made Vice-President and also Minister for Defence. The other portfolios went to members of the four opposition parties previously included in government from 1992 to 1994 <sup>2</sup>. The new government announced that it would abide by the Arusha agreement and thus regarded itself as a transitional government. However, the MRNDD and the CDR were excluded from government, on account of their involvement in the genocide. In September 1994 the government was recognised by the European Union (EU).

*July 1994-late 1996* <sup>3</sup>

In short, from July 1994 until late 1996 many refugees returned to Rwanda, including Rwandans who had taken refuge outside the country before 1994 (particularly Tutsis from Uganda) as well as the bulk of the Rwandan Hutus who had fled in 1994. The latter group returned in spite of, firstly, intimidation by members of the former Rwandan army, the *Forces Armées du Rwanda* [Rwandan Armed Forces] (FAR), and the *Interahamwe* and, secondly, fear of the Rwandan Patriotic Army (RPA). Members of the ex-FAR and *Interahamwe* regrouped in refugee camps in the DRC and Tanzania and launched raids into Rwanda, to which the RPA responded with heavy-handed counter-insurgency operations.

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<sup>1</sup> Ideologically, the RPF is an ethnically neutral party.

<sup>2</sup> The MDR (*Mouvement Démocratique Républicain*), the PL (*Parti Libéral*), the PSD (*Parti Social-Démocrate*) and the PDC (*Parti Démocratique Chrétien*).

<sup>3</sup> Save as otherwise indicated: EIU, Rwanda Country Profile 1999-2000 (1999), and Africa South of the Sahara 2000, particularly pp. 871-873.

The new government called on all refugees to return to Rwanda and help rebuild the economy. Around 700 000 Rwandan Tutsis from Uganda (where they had take refuge between 1959 and 1973) returned to Rwanda shortly after the change of power. Living conditions for the 1994 Hutu refugees in UNHCR camps in Zaire and Tanzania were very poor. Painfully slowly, aid agencies managed to improve the situation. However, former Hutu leaders established political control in the camps, partly by taking over distribution of food and shelter. By means of intimidation and propaganda, such leaders prevented many refugees from returning. Fear was whipped up by reports of arrests and massacres of returnees by the RPA. Militiamen among the refugees began regrouping and launched repeated raids into Rwanda. The RPA responded with heavy-handed counter-insurgency operations, thereby alienating many Hutus. As from late August 1994, the UN deployed 2 500 UNAMIR troops, while the French troops withdrew (UNAMIR eventually left Rwanda on 19 April 1996).

For the first few months after taking power, the RPF allowed its troops to engage in wholesale slaughter of unarmed civilians throughout the country, causing an estimated 30 000 deaths, particularly in Kibungo and Gitarama. The vast majority of those killings targeted civilians indiscriminately and were apparently not carried out on suspicion of victims' personal involvement in the April 1994 genocide. From November 1994 on, the number of killings declined considerably, in response to international pressure. In early November 1994 the RPF announced that it had arrested 25 members of the armed forces for capital offences (six being convicted in 1997 and 1998) <sup>1</sup>.

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<sup>1</sup> HRW, Leave none to tell the story. Genocide in Rwanda (1999).



In early 1995 the government took a number of measures to bring about the return of internally displaced persons from the refugee camps. Most camp evacuations passed off peacefully. When the RPA used great force in evacuating Kibeho camp in southern Rwanda, however, thousands of displaced persons were killed <sup>1</sup>.

In August 1995 the security situation in the refugee camps along the border with Zaire had become so bad that the Zairian government forcibly repatriated around 15 000 refugees within the space of a few days. Under international pressure, Zaire then agreed to let the UNHCR subsequently take responsibility for repatriation. In 1995 the UNHCR repatriated nearly 250 000 Rwandan refugees from neighbouring countries. A small number of returnees were reportedly later arrested in Rwanda on charges of involvement in the genocide.

A political crisis sprang up in August 1995, when the Prime Minister, Twagiramungu, expressed his dissatisfaction with the way in which the authorities were implementing the power-sharing provisions laid down in the Arusha agreement. He also criticised the repeated use of force by the security forces in tackling the problem of displaced persons. Twagiramungu and four other Ministers were thereupon replaced and the former Minister for Education, Pierre Célestin Rwigyema of the MDR, made Prime Minister in a government reshuffle in August 1995. Both ethnic groups and four political parties (besides the RPF) were once again represented in the new cabinet.

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<sup>1</sup> The RPF opposed the presence of Kibeho camp (set up by the French in the *Zone Turquoise* and kept in operation by the UN, the RPF not being favourably disposed towards either in the light of experience during the genocide) and there was reason to believe that it contained genocide suspects. The camp generally served as a hotbed of resistance to the new regime, with the camp organisation disseminating propaganda against it. Disproportionate force was used in evacuating the camp. Estimates of the number of deaths vary widely. Human rights organisations now put the death toll at around one thousand.

*October 1996-August 1998: the first rebellion in the DRC*

From late 1996 onwards, troops from Rwanda, Uganda and Angola helped the Zairian rebel leader, Laurent Kabila, to overthrow the Mobutu regime. Fleeing ex-FAR/*Interahamwe* members launched an uprising in the north-west of Rwanda, with the aim of regaining control of the country, an uprising which initially went in their favour.

Since 1995 ex-FAR/*Interahamwe* members based in Zaire had been making preparations for a resumption of the conflict with the RPA <sup>1</sup>.

In October 1996 the RPA supported the first rebellion in the DRC. Rwandan, Ugandan and Angolan troops helped Zairian Tutsis and other rebels, united within the *Alliance des Forces Démocratiques pour la Libération du Congo* [Congolese Liberation Democratic Forces Alliance] (AFDL), led by Laurent Kabila, to overthrow the Mobutu government in Zaire (in May 1997 Mobutu fled the country and Kabila took over as President). During the rebel advance in the DRC, the inhabitants of the refugee camps were dispersed and many unarmed civilians slaughtered, as well as ex-FAR/*Interahamwe* members. The RPA apparently played a key role in this <sup>2</sup>. From November 1996 to January 1997, 1,2 million refugees chose or were compelled to return to Rwanda, among them some 30 000 to 40 000 ex-FAR/*Interahamwe* members. From December 1996 on, too, the Tanzanian authorities forced 500 000 Rwandan refugees to return home. In Rwanda the returnees were accommodated in transit camps. In north-western Rwanda (the home of the ideology behind the genocide), the ex-FAR/*Interahamwe* members among them lost no time in beginning targeted killings of opponents: Tutsi survivors, returning Tutsi refugees, Congolese Tutsis fleeing the violence in the DRC and Hutus unwilling to support the ex-FAR/*Interahamwe*. In May 1997, following Mobutu's fall from power in Zaire, that uprising in Rwanda developed into a threat to the Rwandan regime. The leaders of the uprising were ex-FAR soldiers belonging to the *Armée pour la Libération du Rwanda* [Rwandan Liberation Army] (ALIR), the armed wing of the *Peuple Armée pour la Libération du Rwanda* [Rwandan Liberation People under Arms] (PALIR); the rank and file were ex-FAR soldiers, members of the *Interahamwe*, former refugees trained in the camps in Zaire and new recruits from among the population of north-western Rwanda <sup>3</sup>.

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<sup>1</sup> African Rights, Rwanda, the Insurgency in the Northwest (undated).

<sup>2</sup> EIU, Rwanda Country Profile 1999-2000 (1999).

<sup>3</sup> African Rights, Rwanda, the Insurgency in the Northwest (undated).

The conflict between the militias and the army initially went against the army. The militias mingled in among the civilian population, who (in some cases) were forced to cooperate with them. The army responded by taking a very tough line and not sparing the civilian population <sup>1</sup>. In putting down the uprising, as in the first rebellion in the DRC, RPA troops killed tens of thousands of unarmed civilians <sup>2</sup>. The violence is believed to have caused the flight of 600 000 members of the civilian population, who roamed around for at least six months.

In late 1997, however, the Rwandan authorities changed tack to follow a more political and social approach, which broke the back of the uprising within a year. The authorities called on north-western Hutu leaders' help with the new approach, entailing a distinction between militiamen and civilians, assistance for returnees and displaced persons, discouragement of retaliation against the thousands dropping out of the militias, involvement of the civilian population and local leaders in countering the rebels, establishment and training of local defence forces (LDFs; see also section 2.4) and especially incorporation of ex-FAR troops into the RPA and deployment of those troops in the north-west <sup>3</sup>. The government also forced hundreds of thousands of the civilian population to settle in supervised camps <sup>4</sup>. This strategy resulted in most ex-FAR/*Interahamwe* militias being pushed back into the DRC. The uprising in north-western Rwanda was increasingly brought under control, partly by cutting off the militias' supply lines, and fighting with the ex-FAR/*Interahamwe* shifted to the DRC. The brutal behaviour allegedly displayed by Rwandan troops in the east of the Congo caused growing anti-Rwandan (in particular, anti-Tutsi) sentiment among the eastern Congolese population <sup>5</sup>, which also adversely affected the Banyamulenge, Tutsis long-established in the DRC. Rwandan Hutu refugees, too, found themselves under pressure, including from Congolese local authorities, to return to Rwanda.

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<sup>1</sup> *Het Grote Merengebied: een regionaal perspectief* [The Great Lakes region: a regional perspective], report on a mission by members of the lower house of the Netherlands parliament and religious organisations to the African Great Lakes region (August 1999), pp. 20 et seq.

<sup>2</sup> HRW, *Rwanda: the search for security and human rights abuses* (April 2000).

<sup>3</sup> John Prendergast and David Smock, United States Institute of Peace, *Postgenocidal Reconstruction: Building Peace in Rwanda and Burundi* (Washington, 1999).

<sup>4</sup> HRW, *Rwanda, World Report for 1999. Human Rights Developments* (2000).

<sup>5</sup> *Het Grote Merengebied: een regionaal perspectief*, p. 5.

The uprising in the north-west caused an estimated 150 000 deaths, only a few thousand of them by violence, the remainder by famine or disease, out of a total regional population of 1,5 million <sup>1</sup>.

*August 1998-June 2000: the second rebellion in the DRC*

Soon after taking power in the DRC, Kabila turned his back on his Rwandan ally and began building bridges with groups hostile to Rwanda in the east of the DRC. In August 1998 this led to a split between Kabila and the RPA, to which the RPA responded with the second rebellion.

Rwandan and Ugandan troops, along with Congolese rebels, moved against Kabila. That coalition did not succeed in taking Kinshasa, because Kabila received support from Angola, Zimbabwe, Namibia, Chad and possibly Sudan <sup>2</sup>.

Throughout 1999 and up to the time of writing, the Rwandan army maintained its presence in the east of the DRC, the Rwandan position being that Rwandan troops will remain there until the security threat posed to Rwanda by Hutu militias operating in the DRC can be controlled <sup>3</sup>.

In July 1999 diplomatic efforts to put a stop to the war resulted in the Lusaka agreement, covering the following points:

- a ceasefire;
- establishment of a Joint Military Commission (JMC);
- deployment of a UN-led international peace-keeping force;
- disarmament of the armed groups fighting in the DRC under the PALIR banner;
- retention of territory seized by rebel groups, pending a political settlement of the conflict.

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<sup>1</sup> Ibid., p. 21.

<sup>2</sup> EIU, Rwanda Country Profile 1999-2000 (1999).

<sup>3</sup> This section is largely based on: EIU, Rwanda Country Reports, 1st quarter 1999 to 1st quarter 2000 (1999-2000), and EIU, Rwanda Country Profile 1999-2000 (1999).

The Lusaka agreement was only partly implemented. One of the main problems in negotiations was that the rebel groups and their foreign allies had become divided. The points at issue were how the conflict in the DRC should be conducted and also, according to some observers, how the spoils of war, in control of natural resources, should be apportioned. Rwanda has since been backing the Goma faction of the *Rassemblement Congolais pour la Démocratie* [Congolese Democracy Union] (RCD-Goma), while Uganda supports the Kisangani faction of the RCD (RCD-Bunia) and the *Mouvement pour la Libération du Congo* [Congolese Liberation Movement] (MLC). Repeated armed fighting between the factions and their allies subsequently took place in 1999, particularly around the Congolese town of Kisangani, which eventually fell into Rwandan hands. In November 1999 the dispute was resolved, but another clash occurred in 2000. On 16 July 2000 the UN Security Council unanimously adopted a Resolution (1304) condemning the action of Rwanda and Uganda in the DRC and calling on them to take the first steps towards a complete withdrawal of foreign troops from the country.

### *Imidugudu*

From 1995 onwards, the authorities carried out a programme to resettle internally displaced persons and returning refugees in *imidugudu* (newly created villages). As from 1997, that programme applied to all country-dwellers in Rwanda, including those who had never left Rwanda. The aim was to separate country-dwellers from their land and create village centres, where a service sector could develop, thereby reducing land distribution pressure<sup>1</sup>. From 1998 onwards, that policy was carried out heavy-handedly in north-western Rwanda, where it appeared, more than in other areas, designed to lessen the chances of any fresh uprising<sup>2</sup>.

A report in the Netherlands found resettlement in *imidugudu* to work well in some places, but not in others, depending on the original situation (availability of land, population make-up and line taken by local government). Resettlement helped to resolve a sizeable housing problem, although less so in the case of country-dwellers, many of whom had first to demolish their existing accommodation. Installation of basic facilities, however, lagged well behind housing construction<sup>3</sup>.

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<sup>1</sup> HRW, *Uprooting the Rural Poor in Rwanda* (2001), pp. 11-13.

<sup>2</sup> HRW, *Rwanda, World Report for 1999. Human Rights Developments* (2000).

<sup>3</sup> D. Hilhorst and M. van Leeuwen, *Villagisation in Rwanda* (Wageningen, 1999).

The *imidugudu* policy proved to be no solution to the land shortage problem. In the land redistribution accompanying resettlement, critics saw a hidden agenda to help "old" refugees, returning from Uganda, grab land at the expense of "new" refugees<sup>1</sup>. The authorities frequently seized land without observing the relevant rules. In most cases<sup>2</sup>, landowners were neither paid compensation nor allotted a new plot of land in return for the holding given up<sup>3</sup>. In addition, there were considerable differences between the manner in which "old" Tutsi refugees had been allotted land on their return and the way in which "new" Hutu refugees a few years later, having been explicitly invited to return by the Rwandan government, had to settle their claims themselves within the community<sup>4</sup>. The *imidugudu* policy does not explain how anyone from whom land has been wrongfully seized can appeal<sup>5</sup>. In some cases, those who had refused to leave their homes and demolish them were imprisoned for from a few days to over a year<sup>6</sup>. Besides redistributing land and resolving the housing shortage, the government argues that *imidugudu* foster reconciliation. According to Human Rights Watch, however, only a few *imidugudu* are mixed-race. In those which are, access to available facilities was often harder to obtain for Hutus than for Tutsis. In HRW's view, relocation in *imidugudu* may in some cases have exacerbated animosity between Hutus and Tutsis<sup>7</sup> (see also, in section 2.3, the subsection on reconciliation). The authorities' top-down approach in such a sensitive area as resettlement in villages could be sowing the seeds of further conflicts<sup>8</sup>.

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<sup>1</sup> Ibid.

<sup>2</sup> Human Rights Watch refers to a survey of 500 *imidugudu* inhabitants, only 8% of whom had received any compensation.

<sup>3</sup> HRW, Uprooting the Rural Poor in Rwanda (2001), p. 42.

<sup>4</sup> Ibid., p. 48.

<sup>5</sup> Ibid., pp. 52-53.

<sup>6</sup> Ibid., p. 55.

<sup>7</sup> Ibid., pp. 61-62.

<sup>8</sup> See also: Het Grote Merengebied: een regionaal perspectief, p. 29.

### *Democratisation and good governance*

Over-centralisation of Rwanda's administration in the past has resulted in a culture of blind obedience to central authority, thus making possible state-orchestrated genocide. Rwanda is currently endeavouring to devolve responsibility for its people's immediate living conditions down to the lowest level of administration and to introduce a kind of bottom-up democracy. In March 1999 elections were held for the first time for ten years at *cellule* [cell, or basic unit] and *secteur* [sector] <sup>1</sup> level. No political parties were allowed to contest those elections, for fear that parties would be formed along ethnic lines. The international community took a broadly favourable view of the elections. A few observers did, however, show some reticence as regards the voting procedure followed, requiring electors to go in person and stand behind the candidate of their choice <sup>2</sup>, and on account of reports of coercion to turn out and vote <sup>3</sup>.

During 1999 and the first half of 2000, a remarkable number of senior national officials left their posts. In 1999 almost one third of parliament's members were replaced, in response to accusations ranging from involvement in the genocide to corruption and being out of touch with grass-roots opinion. The government also suspended some magistrates, including the appeal court chief justice and members of the supreme court <sup>4</sup>. In the first quarter of 2000, the speaker of parliament, Sebarenzi (*Parti Libéral*, a Tutsi survivor of the genocide), was forced out of office, Prime Minister Rwigyema (a Hutu from the MDR) tendered his and his government's resignation and President Bizimungu (a Hutu from the RPF) was obliged to resign. The loss of Bizimungu removed from government the only Hutu who had been at the heart of the RPF power structure from the outset. Vice-President Kagame was chosen by the government and by parliament to succeed him and accordingly transferred his duties as Minister for Defence.

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<sup>1</sup> For an account of Rwanda's administrative structure, see Annex 3.

<sup>2</sup> This is in fact a customary electoral procedure for traditional offices in many societies with low levels of literacy.

<sup>3</sup> Prendergast et al., Postgenocidal Reconstruction: Building Peace in Rwanda and Burundi; UN ECOSOC CHR, Report on the situation of human rights in Rwanda (2000), pp. 8 and 14; EIU, Rwanda Country Report, 2nd quarter 1999; and HRW, Rwanda, World Report for 1999. Human Rights Developments (2000).

<sup>4</sup> HRW, Rwanda, World Report for 1999. Human Rights Development (2000).

### *Genocide trials*

In February 1995 the UN Security Council decided to set up an International Criminal Tribunal for Rwanda (ICTR), to be located in Arusha (Tanzania). That six-member court was inaugurated in late June 1995, for a four-year period, with its first cases beginning in late November 1995. An office was opened in Kigali in 1996. For the first few years, however, cases proceeded at a slow pace, to the Rwandan government's considerable frustration. The first conviction was handed down in April 1998. Cooperation with the Rwandan judiciary proved difficult, though, and the ICTR's work remained remote from the Rwandan population.

In Rwanda itself a law (*loi organique*) concerning prosecutions for genocide and crimes against humanity was enacted on 30 August 1996. It covers offences committed from 1 January 1990 to 31 December 1994. The law distinguishes between four categories of accused:

- category 1: those responsible for planning and instigating genocide and mass murder;
- category 2: those who perpetrated genocide, i.e. carried out killings;
- category 3: those who injured people but did not kill anyone;
- category 4: those who looted and destroyed property.

For all categories, the sentences incurred are more lenient than for comparable offences under the ordinary penal code, apart from category 1, for which the death penalty may be imposed. The attorney-general publishes a list of those charged with category 1 offences, which has been revised twice since first drawn up. Rwanda's chief prosecutor, Gahima, bears responsibility for the list, which is published in the official gazette. It is revised on the basis of information obtained via local prosecutors' offices throughout the country or gleaned by Gahima's own office. Gahima's office takes charge of prosecutions of high-ranking figures such as ministers and members of parliament. The list is regarded by human rights organisations as also serving political purposes, with cases known of in which individuals were listed on suspicion, without the prosecutor's office having built up watertight proof of the charges against them.



The law includes a confession and guilty plea procedure, whereby the accused can admit an offence and plead guilty, during the preliminary inquiry; if the public prosecutor accepts that plea, the accused qualifies for a reduced sentence. Those on the official list of people suspected of category 1 offences are excluded from the procedure.

A start was made on the questioning of 35 000 people in Rwanda in early 1995, but this had to be broken off again straight away, owing to shortage of funding and a defunct justice system. Reports of severe prison overcrowding appeared in mid-1995. Court proceedings began in December 1996, but by February 2000 only about 2 500 people had stood trial, out of a total of 113 000 genocide suspects held in prison. Of the defendants, 348 have been sentenced to death, 730 to life imprisonment, 818 to prison terms of up to 20 years and the remainder acquitted. Only 22 of those sentenced to death have been executed, publicly in April 1998. The executions prompted several thousand prisoners to plead guilty in anticipation of reduced sentences, fewer than the authorities had hoped <sup>1</sup>. In October 1998 the authorities announced, to survivor groups' fury, that prisoners against whom there was not a fully documented case would be released, as about 3 000 since have been <sup>2</sup>.

### *Gacaca*

In mid-2000, in an attempt to clear the backlog of genocide cases, the authorities tabled a bill to introduce *gacaca* (an adapted version of traditional courts). Such courts, to be established in large numbers, would try groups of defendants together, thus speeding up the process of bringing genocide suspects to justice.

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<sup>1</sup> Special Representative, UN ECOSOC Commission on Human Rights, Report on the situation of human rights in Rwanda (February 2000), section IX.

<sup>2</sup> EIU, Rwanda Country Profile 1999-2000 (1999), p. 10.

The bill makes provision for *gacaca* courts for the prosecution of category 2 to 4 suspects. Lay magistrates, elected by the population of each *cellule* (the lowest administrative level), *secteur*, district and province, must not be political activists or members of any political party, religious group or non-governmental organisation <sup>1</sup>. Category 4 suspects are to be tried at *cellule* level, category 3 at *secteur* level and category 2 at district level, with appeals in category 2 cases to be heard at provincial level.

Defendants will stand trial before the entire community. Those charged with more serious offences (in categories 2 and 3) will be referred to a higher level (*secteur* or district). There will be no opportunity to appeal against *gacaca* court judgments at *cellule* level, but there will be a chance to do so at *secteur* or district level. Those found guilty will be have to pay compensation for any damage caused, perform community service or go to prison <sup>2</sup>.

The proposed *gacaca* justice did not afford full internationally accepted safeguards ensuring a fair trial. There was concern in particular as regards entitlement to legal assistance, magistrates' competence and the right to appeal <sup>3</sup>. Human rights organisations within Rwanda and outside the country, as well as the international community, therefore had reservations. Human Rights Watch voiced doubts about a system involving administration of justice by fellow members of the local community. Many people had been resettled by the authorities or had moved house of their own accord since 1994. The community would thus in many cases not be the same as at the time of the genocide <sup>4</sup>.

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<sup>1</sup> HRW, Press release on Rwanda (New York, 1 February 2001).

<sup>2</sup> UNGA CHR, Situation of Human Rights in Rwanda (1999).

<sup>3</sup> UNGA CHR, Situation of Human Rights in Rwanda (1999); UN ECOSOC CHR, Report on the situation of human rights in Rwanda (2000); Amnesty International, Rwanda, the troubled course of justice (2000); ICG, Five years after the genocide in Rwanda: Justice in question (1999); *Het Grote Merengebied: een regionaal perspectief* (1999).

<sup>4</sup> HRW, Press release on Rwanda (New York, 1 February 2001).

Such organisations nevertheless did not categorically reject *gacaca*, recognising that the delay in bringing genocide suspects to justice called for unconventional courses of action. Many thought *gacaca* the only credible alternative, if those accused of genocide were to stand trial within anything like a reasonable period of time. There was a willingness to consider whether the use of *gacaca* courts would serve higher goals such as justice and reconciliation. In July 1999 the European Union (EU) expressed its strong hope that *gacaca* courts would show clemency. In Rwanda itself, however, survivors feared just that: undue clemency on the part of *gacaca* courts.

## 2.2. System of government

The current Rwandan constitution was approved by parliament in May 1995, being based on the 1991 constitution (introducing a multi-party system), the 1993 Arusha agreement, the RPF's declaration following its 1994 victory and understandings reached between the political parties (except for the MRNDD and the CDR) in late 1994<sup>1</sup>. The executive, the legislature and the judiciary are officially separate. The government of national unity is officially a transitional government, being unelected. It comes under a President, while a Prime Minister takes charge of day-to-day business and bears responsibility for relations with parliament. There are eight political parties represented, as well as the RPA, within the 74-member transitional parliament (*Assemblée Nationale de Transition*), with seats constitutionally allocated<sup>2</sup>. Members are selected by their own party executive. Meeting within a forum, the political parties agreed in 1994 to suspend their activities for the duration of the transitional period, originally due to end in July 1999, but in June 1999 extended until 2003.

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<sup>1</sup> This section draws on: EIU, Rwanda Country Profile 1999-2000 (1999); Africa South of the Sahara 2000; and US Department of State (DoS), Human Rights Report on Rwanda for 1999 (25 February 2000).

<sup>2</sup> For a breakdown of seats in parliament, see Annex 2.

Provincially, officials are appointed by the central authorities. In March 1999 local elections (at *cellule* and *secteur* level) were held for the first time for ten years. *Secteur* and district elections then took place in March 2001. Whereas a district had previously been headed by an appointed mayor, the population now, via an electoral college, elected district councils, which designated a mayor from among their own number (for further details, see section 2.3 on political developments) <sup>1</sup>.

The judiciary enjoys independence, by law. The judicial system consists of a supreme court, twelve courts of first instance and 143 provincial courts <sup>2</sup>. In 2000 a start was made on a new legal system, geared to the specific circumstances brought about by the genocide, i.e. vast numbers of suspects held in overcrowded prisons and a need for reconciliation and reconstruction. Those *gacaca* courts are to be presided over by lay magistrates elected by the population (for further details, see sections 2.3 on political developments and 3.3.5 on judicial process).

In addition to the civil and criminal justice system, there are also military courts.

### **2.3. Political developments**

This section breaks down into domestic and foreign policy developments. The domestic policy developments to be discussed include democratisation, *imidugudu* matters, reconciliation and genocide trials. Foreign policy developments relate in particular to the peace process in the Great Lakes region, including exploitation of natural resources in the DRC and relations with Uganda.

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<sup>1</sup> For an account of the administrative structure in Rwanda, see Annex 3.

<sup>2</sup> An estimated three quarters of Rwanda's judiciary were killed in the 1994 violence.

## *Democratisation*

The first ever <sup>1</sup> elections at *secteur* and district level <sup>2</sup> were held from 6 to 9 March 2001, with representatives elected for each *secteur*. As in the 1999 elections, political parties were not allowed to campaign or put up candidates in these elections, although this time, unlike the previous elections, polling was by secret ballot, with candidates' photographs shown on the ballot papers. Three kinds of representatives were elected for each *secteur*: a general representative, a women's representative and a youth representative. General representatives automatically qualified for a seat on the district council, along with one third of the women's representatives and one third of the youth representatives.

District executive committees (comprising a mayor and four other members) were then elected by an electoral college consisting of all newly elected representatives, plus the *cellule* and *secteur* representatives elected in 1999. Those previously elected representatives <sup>3</sup> made up some 90%, in all, of electoral colleges, thus leaving the newly elected representatives precious little influence. Most of the incumbent mayors were re-elected.

The turnout was around 90%, with some 200 local and international observers in attendance (drawn from sources including diplomatic representations, Human Rights Watch and International Crisis Group).

In 2% of *secteurs* there was no youth candidate to vote for and in 3% no women's candidate. In 28% of *secteurs* there was only one general candidate standing and in half only one women's candidate. The other *secteurs* had a choice of more than one candidate for posts. Although parties could not officially have any hand in the elections, the RPF did reportedly in some cases bring pressure to bear on certain candidates to withdraw or join the RPF <sup>4</sup>.

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<sup>1</sup> Even before 1994, no elections had ever been held at regional level. Prior to 1994, mayors (in charge of districts) were government appointees.

<sup>2</sup> On Rwanda's administrative structure, see Annex 3.

<sup>3</sup> Elected under a procedure whereby electors cast their vote by publicly going and standing behind a candidate.

<sup>4</sup> HRW, Press release on Rwanda (New York, 1 February 2001).

Military use of force was reported at 1% of polling stations, particularly in Gisenyi. In other *secteurs*, the police and the armed forces kept their distance. In March 2001 the National Human Rights Commission opened an investigation into complaints concerning the conduct of that month's elections. It has yet to report its findings <sup>1</sup>.

Presidential and parliamentary elections are scheduled for 2003, with provincial elections due to held by then. There is speculation that provinces will be used as constituencies for national elections, although nothing definite has yet emerged <sup>2</sup>. Political parties will probably still not be allowed to take part in the provincial elections, but the government has promised that they will be allowed to do so in the national elections. It remains unclear when the ban on political activities will end <sup>3</sup>.

During 1999 and the first half of 2000, a remarkable number of senior officials left their posts in government (for further details, see section 2.1.2 on history). After the situation had quietened down for a while, President Kagame dismissed the Minister for the Interior, Gakwaya (PDC), on 15 March 2001 <sup>4</sup>. No official reason was given for the dismissal, although the pro-government press accused Gakwaya of engaging in destabilising activities in his home region, Cyangugu, on the border with the Congo. Mention was also made of his public bickering with the ministry's top civil servant, a prominent RPF member <sup>5</sup>. A PSD member of parliament had earlier been removed from office in late 2000 in connection with an investigation into Gakwaya's activities.

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<sup>1</sup> UN ECOSOC CHR, Situation of human rights in Rwanda, p. 7.

<sup>2</sup> EIU, Rwanda Country Report, February 2001 (2001), p. 8.

<sup>3</sup> EIU, Rwanda Country Report, November 2000 (2000), p. 8.

<sup>4</sup> Gakwaya disappeared in April 2001 and is generally assumed to have left the country.

<sup>5</sup> EIU, Rwanda Country Report, May 2001 (London, 2001), pp. 11-12.

In June 2001 the Rwandan government banned a new political party (the PDR-Ubuyanja), set up shortly beforehand by ex-President Bizimungu. The ban was accompanied by intimidation of Bizimungu and some fellow founding members of the party. The government based its ban on the understanding reached by the forum of political parties in 1994 that no political activities would be engaged in over the transitional period (since extended until 2003). During his presidential term (from July 1994 to March 2000), Bizimungu had carried out that policy (see also sections 2.2 and 3.3.2).

The RPF holds seven of the 23 ministries, while all those without an RPF minister have a top civil servant from the RPF.

A few opposition political parties have been set up abroad <sup>1</sup>. According to observers, the opposition drew support from international criticism of Rwanda, particularly following the invasion of the DRC in 1998. One of the parties, ARENA, was set up by a former speaker of parliament, Joseph Sebarenzi, and is opposed to the concentration of power in the hands of a small group around Kagame <sup>2</sup>. No real political dialogue is being engaged in with those parties, referred to by the Rwandan government as "*forces divisionnistes*" [divisive forces] and sometimes even "*forces négatives*" [negative forces]. Rwandans in the diaspora, whether or not members of any opposition party, are generally called on to return to Rwanda and participate in the processes unfolding there, a call answered by some of them.

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<sup>1</sup> In Washington, Brussels, Vienna and Kampala.

<sup>2</sup> Reuters (23 April 2001).

### *Imidugudu*

In June 2001 Human Rights Watch issued a report on the manner in which the Rwandan authorities' resettlement policy is being carried out. According to HRW, many people were forced to leave their homes and demolish them, with no new ones available in *imidugudu*. During the period since the previous official report, there were still people living in "*blindés*" [makeshift shelters], temporary protection often consisting of no more than plastic sheeting or banana leaves. The report does find that the authorities have been implementing the programme with less pressure and urgency since 2000. On the whole, the government is now trying to persuade people of the merits of resettlement in *imidugudu*, instead of relocating them by force. Even in the second half of 2000, however, forcible relocation was still being practised in some areas, including Cyangugu province in south-western Rwanda. Moreover, the rights of *imidugudu* residents and people required to share land had still not been established in late 2000. In Kibungo, following a meeting, human rights instructors were asked by the authorities to pay less attention in future to Rwandans' property rights under domestic and international law <sup>1</sup>.

### *Reconciliation*

The UN Special Representative for Rwanda, Michel Moussalli, has expressed concern over the country's land policy. A lack of sufficient farming land was one of the underlying issues behind the genocide, an issue still unresolved now. Returning refugees, demobilised soldiers and released prisoners will all be making claims on the limited amount of land. Unless properly addressed, according to the Special Representative, this problem will give rise to fresh tensions in Rwandan society <sup>2</sup>.

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<sup>1</sup> HRW, Uprooting the Rural Poor in Rwanda (2001), pp. 89-90.

<sup>2</sup> UN ECOSOC CHR, Situation of human rights in Rwanda (2001), p. 14.



When the Rwandan government wanted to fund *imidugudu* with the assistance of international housing programmes, increasing reference was made to reconciliation as one of the resettlement scheme's aims. Land redistribution was said to be necessary in order to counteract growing tensions between the various groups of returning refugees and communities which had never left Rwanda. Up to now, however, only a minority of *imidugudu* are mixed-race and pre-resettlement housing patterns even showed more intermingling than do the present *imidugudu*. Even in actual mixed-race *imidugudu*, facilities were better for Tutsis than for Hutus in the same village, who had in many cases returned more recently <sup>1</sup>. Observers involved in distributing aid to *imidugudu* residents told Human Rights Watch that villages inhabited by returning Tutsi refugees and genocide survivors were generally better provided for, e.g. with health care, than other villages. This was often because international aid had been earmarked for specific groups and sometimes because resources had run out <sup>2</sup>. Some Twas complained in 2000 that their ethnic group received less public assistance than other Rwandans <sup>3</sup>.

In a general way, the aloofness of the ruling group from the majority of the population threatens to jeopardise the reconciliation process.

In 1999 the government established a National Unity and Reconciliation Commission <sup>4</sup>. This has begun holding consultations throughout the country on matters related to coexistence between the various groups, endeavouring to arrive at a common view of problems and solutions for all Rwandans. Perhaps the most novel point in its terms of reference is assessing, for all government programmes, their impact on peace, reconciliation and national unity.

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<sup>1</sup> HRW, Uprooting the Rural Poor in Rwanda (2001), p. 61.

<sup>2</sup> HRW, Uprooting the Rural Poor in Rwanda (2001), p. 62.

<sup>3</sup> Ibid.

<sup>4</sup> The Commission has an ethnically balanced membership. Its chairman is a PDC member and its executive secretary an RPF member. In practice, the Commission is RPF-dominated.

The Commission organises re-education camps (referred to by the government as "solidarity camps"). These were originally established to re-educate civilians who had fled after the RPF took power in 1994. Nowadays there are a variety of camps for ex-FAR or *Interahamwe* members, students, civil servants and returning refugees. Students following courses at a state university and civil servants under the previous regime are required to undergo training at a solidarity camp. There are no known instances of people refusing to attend such training. Pressure by the authorities to attend is so heavy as to leave no other option. Training courses last for from one to three months, during which time participants receive ideological and physical training. Ideological training consists of lectures on Rwanda's history and on how the Belgian colonial power stirred up ethnic animosities eventually resulting in genocide. Trainees are told that patriotism means being ready to defend their country, if need be. They are also told that all Rwandans are one people and ethnic differences must be overcome. Songs are sung and discussion sessions held. Many camps teach self-defence (including firearms training), although the military aspects vary according to the target audience <sup>1</sup>. Ex-FAR soldiers are prepared, in camps, for reintegration into Rwandan society and possibly incorporation into the Rwandan army.

In October 2000 the National Unity and Reconciliation Commission held a national conference. Few of those invited from outside the country actually attended <sup>2</sup>, there being a great divide between the diaspora and events in Rwanda. Discussions were held by phone with representatives of the Rwandan opposition in Brussels, however, and broadcast live on national radio.

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<sup>1</sup> HRW, [Press release on Rwanda](#) (New York, 1 February 2001).

<sup>2</sup> HRW, [Press release on Rwanda](#) (New York, 1 February 2001).

### *Genocide trials*

Genocide trials are held primarily in two locations: firstly in Rwanda itself, where, as well as the ordinary courts, *gacaca* courts are likely to start up early in 2002, and secondly in Arusha (Tanzania), where the International Criminal Tribunal for Rwanda sits. In addition, in the first half of 2001, a case was brought in Belgium against four Rwandans accused of involvement in the genocide.

*Gacaca* courts were originally intended to come into operation in September 2000, but this was postponed until early in 2002<sup>1</sup>, as a result of disquiet in all sections of the Rwandan population. On the one hand, Tutsi survivors fear that trials held at the scene of the crime will cow victims and witnesses into silence. On the other, hitherto unapprehended perpetrators are afraid of still now being identified and punished. Opposition also emerged to having *gacaca* courts try cases going back to 1990. There were already Tutsis being killed while the RPA advanced on Kigali from 1990 to 1994, although it remains unclear whether those killings formed part of any planned genocide, as the *gacaca* courts' jurisdiction would suggest. To regard the killings of Tutsis from 1990 to 1994 as part of the genocide is to portray the armed conflict between the RPA and the FAR and *Interahamwe* as RPA defence against FAR and *Interahamwe* genocide, with RPA atrocities thus treated differently from ex-FAR and *Interahamwe* atrocities<sup>2</sup>. As a result of the jurisdiction conferred on *gacaca* courts, ex-FAR and *Interahamwe* troops will be tried by those courts, while RPA troops guilty of crimes against humanity are tried by military courts.

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<sup>1</sup> EIU, Rwanda Country Report, August 2000, p. 15.

<sup>2</sup> Christian Science Monitor, Rwanda Attempts Atonement (9 May 2001).

Views on *gacaca* varied among the Rwandan population, but with a rising tide of support. Some saw *gacaca* as a solution to prison overcrowding, others as a vehicle for reconciliation, others again as a way of establishing the facts regarding the genocide and there were lastly those who saw *gacaca* as means of punishing the culprits. Even genocide survivors lent the proposal growing support. While they took a reticent view of any proposal leading to the release of culprits, it became increasingly clear that the only alternative would be a general amnesty, which they found unacceptable <sup>1</sup>.

Owing to the opposition to *gacaca* justice, it was decided to proceed cautiously with its introduction and postpone it for a while, in order first to build greater public support for it. The Ministry of Justice arranged meetings with human rights organisations and called for extensive participation <sup>2</sup>. In January 2001 the Rwanda widows' association, AVEGA (in Kinyarwanda: *Agahozo*), a genocide survivors' group, called on its members to give *gacaca* cases their full cooperation <sup>3</sup>.

A pre-*gacaca* trial was held in Kibuye in November and December 2000. Case files were prepared for 3 434 inmates of Gisovu prison, showing there to be little or no evidence of involvement in the genocide for 544 of them. Those suspects were then presented to the population. For six weeks, members of the public could testify in favour of or against individual suspects, after which it was decided that 256 of the 544 presented (47%) should be released straight away.

After Kibuye, such pre-*gacaca* trials were also held in Ruhengeri, Butare and Gisenyi.

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<sup>1</sup> UNGA CHR, Situation of Human Rights in Rwanda (1999).

<sup>2</sup> EIU, Rwanda Country Report, November 2000, pp. 12-13.

<sup>3</sup> EIU, Rwanda Country Report, February 2001, p. 12.

Penal Reform International (PRI) has been monitoring the pre-*gacaca* trials. It has expressed concern that a number of preconditions for the proper operation of *gacaca* courts are not yet fulfilled. In particular, public information is very sketchy, resulting in a great deal of misinformation and mistrust regarding the new courts. In addition, there are fears for the safety of those who may testify against suspects still at liberty. PRI is also calling for separate, protected sections within prisons for suspects willing to confess. Lastly, PRI points to the lack of any legal framework for the community service orders imposable and for victim compensation. Nor are the precise responsibilities of the various parties to be involved in trials as yet clear.

The *gacaca* legislation was published in the official gazette on 15 March 2001. Elections to choose the 256 000 *gacaca* magistrates were held on 4 October 2001<sup>1</sup>. Candidates were required to be of unimpeachable behaviour and not to have any criminal record. The genocide victims compensation fund law has yet to be drafted. As regards the imposition of community service, the Special Representative of the UN Commission on Human Rights for Rwanda has urged that consideration be given to the type of work to be carried out by those sentenced to it. In his view, this should be such as to foster reconciliation and benefit the community<sup>2</sup>. The legal framework for community service orders and victim compensation is not yet available.

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<sup>1</sup> 90% of the electorate voted in those elections.

<sup>2</sup> UN ECOSOC CHR, Situation of human rights in Rwanda (2001), p. 11.

The *gacaca* courts are to begin with cases in which offenders have admitted the charges, accounting for some 16% of cases in March 2001. A confession has to plausibly identify other culprits. Those accusations will then be investigated and checked out <sup>1</sup>. An accusation levelled by a fellow prisoner, moreover, is not sufficient to secure a conviction. The number of confessions made was low at first, apparently because prisoners thought the reduction in sentence on offer in return for a confession too small. Confession was also felt to be over-hasty, since for a long while it looked as though not all prisoners would be able to be brought to trial. With the introduction of *gacaca* courts in prospect, the ranks of those making confessions are swelling rapidly, as cases are now expected to be disposed of with dispatch <sup>2</sup>. The government anticipates that, with the assistance of *gacaca* courts, it should be possible to complete all cases in 2003 <sup>3</sup>.

In addition to the trials of the vast majority of genocide suspects in Rwanda itself, there are cases being brought in Tanzania against the ringleaders of the genocide. The International Criminal Tribunal for Rwanda (ICTR) in Arusha has the great merit of bringing recognition of the 1994 genocide as such under international law. It has also made it possible to indict people who, had it not been for the ICTR, would no doubt have evaded justice. Yet the ICTR is not without its critics. A commonly held view in Rwanda sees little in the way of reconciliation to be expected from the ICTR. According to International Crisis Group researchers, the ICTR has made little or no contribution to reconciliation, despite that being one of the tasks assigned it. There is little coverage of cases in the Rwandan media <sup>4</sup>. Rather than bringing the Rwandan people together, the ICTR is viewed by one side as staging political show trials and by the other as playing down criminals' misdeeds <sup>5</sup> (for further details, see section 3.3.5 on judicial process).

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<sup>1</sup> EIU, Rwanda Country Report, August 2000, p. 8.

<sup>2</sup> EIU, Rwanda Country Report, February 2001, p. 12.

<sup>3</sup> EIU, Rwanda Country Report, November 2000, p. 8.

<sup>4</sup> International Crisis Group (ICG), International Criminal Tribunal for Rwanda: Justice Delayed (Brussels, 7 June 2001), p. 23.

<sup>5</sup> ICG, International Criminal Tribunal for Rwanda (2001), p. 26.

The ICTR makes its documentation centre available to the public. A hundred visitors a day consult its literature on legislation and genocide and make use of the computer Internet connections. The centre also works with Rwandan NGOs such as *Liprodhor* (the Rwandan League for Human Rights). Those organisations keep an up-to-date record of judgments in local cases and enter them in a database. There are plans to allow the genocide to be addressed by means of radio programmes or amateur dramatics.

A genocide case was brought in Belgium from April to June 2001 against two nuns, a professor and a businessman from Rwanda, all of whom were found guilty. The "Butare four" were prosecuted under a 1993 Belgian law to combat serious breaches of the 1949 Geneva Conventions, which gives Belgian courts universal jurisdiction to try such crimes.

#### *Peace process in the Great Lakes region*

The Lusaka agreement reached in July and August 1999 was subsequently not really put into practice. There were differences of opinion regarding the order in which the provisions agreed on should be carried out. Kinshasa wanted Uganda, Rwanda and Burundi to withdraw from Congolese territory first of all, while those countries were not prepared to do so until the rebels had been disarmed, partly by way of an inter-Congolese dialogue between all warring parties.

In August 2000 Rwanda expressed its willingness to withdraw its forces unilaterally from a 200 km-wide strip of Rwandan-held DRC territory, provided the UN took control of the area. The proposal did not bring any progress in the peace process, as the offer was considered insufficient and it was also felt that the Rwandan forces would not pull back into Rwanda but be deployed elsewhere in the DRC. In November 2000 Congolese and ALIR forces launched a surprise offensive against the RPA and the RCD. The attack was beaten back and ended in a crushing defeat for the ALIR and Congolese forces, with the town of Pweto being taken, contrary to the provisions of the Lusaka agreement.

Not until Joseph Kabila became President of the DRC, following the killing of his father, Laurent Kabila, in January 2001, did the way once again seem open for negotiations. Kabila senior had consistently refused to allow Botswana's Masire to act as a facilitator in the inter-Congolese dialogue, but Kabila junior now agreed to this. International peace talks were subsequently opened in Zambia on 16 February 2001.

Rwanda now withdrew from the talks, on account of Zambia's part in facilitating them. Kagame argued that Zambia's impartiality had been compromised, because in December 2000 the country had given refuge to 6 000 fleeing *Interahamwe* and ex-FAR troops. Under pressure from Zimbabwe and the DRC, Zambia had then allowed those rebels to return to the DRC, without disarming them or vetting them for genocide involvement. Kagame refused to attend the talks in Zambia, but nevertheless made clear his support for the peace process and his willingness to cooperate with it. Rwanda endorsed the Lusaka agreement, the Kampala and Harare troop disengagement plans and the withdrawal of forces.



The capture of Pweto by the RCD and the RPA prompted the international community to take a less sympathetic attitude towards the presence of Rwanda and other foreign powers in the DRC. In Resolution 1341 of 22 February 2001, the UN Security Council demanded that Rwanda, Uganda and Burundi begin implementing the troop withdrawal plan. In February and March 2001 the RCD and the RPA started withdrawing from the front line<sup>1</sup>. Reportedly, however, the troops did not move back into Rwanda, but were redeployed in the Kivu provinces<sup>2</sup>. An increased RPA presence in the Kivu provinces, where the DRC borders on Rwanda, and the movement of *Interahamwe/ex-FAR* forces towards Rwanda, as a result of the progress of the peace process, led in June 2001 to incursions into north-western Rwanda from the DRC (see also section 2.4 on the security situation). In those raids, the RPA took large numbers of combatants prisoner. Many also voluntarily gave themselves up to the army. The National Unity and Reconciliation Commission took charge of looking after those groups and housed them in "solidarity camps" (re-education camps). After a month, returnees were allowed to leave the camps and go back to their families. Vetting for involvement in the 1994 genocide did not come within the National Unity and Reconciliation Commission's remit. The Ministry of Justice will have to decide at a later stage whether and, if so, how such vetting is to be carried out. Returnees from the DRC proved to have a completely distorted picture of the situation in Rwanda<sup>3</sup>. They are now assisting with radio programmes to provide information for those left behind in the Kivu provinces.

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<sup>1</sup> In some places, Rwandan troops even pulled back considerably more than 200 km.

<sup>2</sup> Amnesty International (AI), Democratic Republic of Congo. Rwandese-controlled east: Devastating human toll (London, June 2001).

<sup>3</sup> ALIR fighters taken prisoner or otherwise returning stated that their leaders had assured them of the Rwandan population's assistance, making the north-west and then Kigali easy to capture. There were also stories around of Hutus being enslaved by Tutsis, forced to go about naked and slaughtered in droves.

In September 2001 the Kinshasa government announced the disarmament of some 3 000 Rwandan rebels. The MONUC peace-keeping force in the DRC has not yet been allowed access to the rebels, who according to Kinshasa have already been disarmed. The Rwandan authorities believe the main forces still to be armed and also still to pose a threat to Rwanda's stability. Rwanda is therefore continuing to take a wait-and-see attitude in the DRC peace process.

*Exploitation of natural resources in the DRC*

In April 2001 a UN panel of experts published a report confirming that a number of countries, including Rwanda, are taking advantage of the DRC's resources. Rwanda and other countries referred to in the report, along with the international community, heaped criticism upon the report, which they considered unbalanced (paying scant attention to natural resource exploitation by Kabila's allies, such as Zimbabwe) and ill-founded. The report was also castigated for its lack of historical insight. Rwanda has longstanding ties with the Kivu provinces, for instance, where African and other firms were in operation well before Kabila senior appeared on the scene. The Rwandan government went on to point out that Rwanda's (temporary) presence in the DRC was recognised under the Lusaka agreement and that the report failed to specify what constituted illegal activities in the DRC on Rwanda's part.

An IMF mission visiting Rwanda in May 2001 did implicitly confirm the UN report's findings concerning exploitation of natural resources from the DRC, by pointing to an upsurge in exports of coltan<sup>1</sup> as the main source of economic growth, even though coltan is not extracted in Rwanda. The Rwandan government denies that financial gain is one of the reasons for its army's presence in the DRC. It is generally accepted that the DRC's resources were not what caused the country to be invaded, security being the sole reason. Extraction of natural resources did, however, go on to become a factor in the RPA's presence in the country.

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<sup>1</sup> Coltan, an abbreviation of columbo-tantalite, is a much sought-after raw material, used for purposes such as the manufacture of mobile phones.

According to observers, the Rwandan army directly involves itself in extraction of natural resources on only a limited scale, but does cream off the profits. Individual army commanders feather their own nests, thus giving them good reason to remain in the DRC. They have apparently sent in people (including Rwandans, particularly prisoners and street children) to mine there <sup>1</sup>. The human rights organisation *Liprodhor* reports that in January and February 2001 several hundred people were hired in north-western Rwanda for voluntary paid employment in the mines in the DRC. In previous years, people in north-western Rwanda had even been press-ganged into service. The relevant army commanders are said to be behind the mining and recruitment, lining their pockets with the proceeds. On the whole, though, mining is carried out by Congolese from the Kivu provinces, with the minerals mined then sold to army officers.

### *Relations with Uganda*

Following the Kisangani incident in June 2000 <sup>2</sup>, the once close relationship between Uganda and Rwanda came under strain. During the Ugandan election campaign in March 2001, Uganda's President Museveni classed Rwanda as a hostile country. This elicited a sharp reaction from the Rwandan Ministry of Foreign Affairs and President Kagame had to step in, lest the situation get out of hand. Kagame did not attend Museveni's inauguration. As tension mounted, rumours emerged of troop reinforcements on either side of the border. The temperature rose still further when around 50 Ugandan army officers sought asylum in Rwanda in June 2001. They accused the Ugandan army (UPDF) of persecution, corruption and torture. Uganda demanded that the officers be handed over to the UNHCR immediately, in accordance with the rules of international law. Rwanda responded by claiming that Uganda had not handed over a number of Rwandan officers either <sup>3</sup>. The Rwandan and Ugandan armies did, however, resume joint operations a week earlier, with the UPDF and the RPA agreeing to hold monthly meetings in order to resolve any differences arising on the ground <sup>4</sup>.

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<sup>1</sup> AI, DRC. Rwandese-controlled east, section 3.4.

<sup>2</sup> See section 2.1.2 on history, p. 21.

<sup>3</sup> IRIN-CEA (26 June 2001).

<sup>4</sup> IRIN-CEA (16 to 22 June 2001).

In early July 2001 Museveni and Kagame met to work for an improvement in mutual relations. Following the meeting, the two heads of state announced that they would not repatriate refugees from each other's country, but that refugees would not be allowed to cause trouble in their country of origin, from their country of asylum. Museveni also agreed that Rwanda would no longer be regarded as a hostile country <sup>1</sup>.

Developments in the Great Lakes region, in particular, as described in this section, have an impact on the security situation in Rwanda, an account of which follows in the next section.

## **2.4. Security situation**

This section first looks at the armed forces available to the Rwandan authorities and at the strength and make-up of armed opposition to the government. Military developments over the reporting period are then outlined, ending with a description of the security situation in the various parts of Rwanda as at the end of July 2001.

### *Armed forces*

This subsection discusses the armed forces in Rwanda. For an account of recruitment, see section 3.4.7 on conscripts.

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<sup>1</sup> Reuters (6 July 2001).

The Rwandan security forces comprise the army, the police and the voluntary local defence forces (LDFs). Responsibility for external security and for the country's defence lies with the Ministry of Defence (army), while internal security comes under the Minister for the Interior (police) and the Minister for Local Government and Social Affairs (LDFs). In 2000 the gendarmerie was replaced by the Rwandan National Police (RNP), a force of around 4 000 officers previously belonging to the gendarmerie and the local police. Most police officers are Tutsis, senior officers being mainly Tutsi returnees from Uganda. The RNP comes under the Ministry of the Interior, whereas the gendarmerie used to come under the Ministry of Defence. The principal task for the new police force is to maintain public security. Only in the north-west is public security primarily the job of the army, with the police and LDFs playing a subordinate role. As the police do not have sufficient numbers to perform their duties properly, they often call on the assistance of the army or LDFs.

The LDFs are home guard units, originally set up under the Habyarimana government to help the army deal with RPA raids. After 1994 there was at first no police force and the authorities reacted by setting up new home guard units to protect the population from residual genocidal forces in the country. From 1995 to 1997 the LDFs were for a while disbanded, in response to reports of abuse of their authority in relation to members of the public. Following the rebellion in the north-west, however, they were re-established.

The LDFs consist of groups of young people (mostly young men, but some young women too) who first receive two or three months' military training. Their ethnic make-up varies according to that of the region in which they operate, but the leaders are generally Tutsis. Most LDF members are unemployed young men aged between eighteen and thirty, although in some districts in the north-west, where most adult males have been killed or have left, children aged from fourteen upwards have been forced to join (as from late 1997, the LDF was used in that area to help defeat the ex-FAR/*Interahamwe* uprising). Since the start of the second rebellion in the DRC, some have been among those sent to the DRC to fight, in many cases against their will.

The LDFs serve in theory to protect their communities, but human rights organisations report numerous cases of improper use of force by LDF members. The scale of abuse of authority in the form of sexual violence and robbery is roughly the same throughout the country but, owing to the altogether less stable situation in the north-west, the number of killings by LDF members is somewhat higher there than in the rest of the country. Over the reporting period, too, a number of civilians are said to have been killed after being taken for infiltrators from the DRC. Individual LDF members and demobilised soldiers were blamed for the killing of civilians <sup>1</sup>. LDF members also engage in banditry. As they draw no pay for their duties, some use their position to commit robbery and extortion.

In some districts, LDF members abusing their position have quickly been disciplined, being in some instances given a thrashing at a military post, in others dismissed from the LDF and in the most serious cases arrested. Where local authorities give LDFs their full backing or have themselves been browbeaten by LDFs, however, public complaints are ignored.

The present Rwandan army, the Rwandan Patriotic Army (RPA), derives its name from the troops who in 1990 invaded Rwanda from Uganda and, a few months after the start of the 1994 genocide, seized power in Rwanda. It thus directly replaced the pre-genocide regimes' army, the *Forces Armées du Rwanda* (FAR). The strength of the present Rwandan army is not known with any precision, being put at between 49 000 and 64 000, 6 000 of them stationed in the DRC <sup>2</sup>. There is not officially any conscription, although forced recruitment campaigns are in practice carried out from time to time (see section 3.4.7).

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<sup>1</sup> US DoS, Human Rights Report on Rwanda for 2000 (25 February 2001), p. 4.

<sup>2</sup> International Institute of Strategic Studies (IISS), Military Balance 2000-2001 (London, 2001), p. 279.

Most of the officers and their troops are Tutsis. The vast majority of the senior officers are Tutsi returnees from Uganda (who speak English as a second language, after Kinyarwanda). Junior officers are generally Tutsi genocide survivors, speaking French as a second language, and often better educated than those from Uganda. There are a few Hutu senior officers, mainly ex-FAR members incorporated into the RPA. Shifting coalitions take shape between these various factions within the RPA, with President Kagame relying chiefly on the Tutsi officers back from Uganda, but having to manoeuvre between the various groups in order to preserve the balance of power between the government and the army.

Hardly any Twas belong to the army. About 60% of the rank and file are Tutsis and 40% Hutus.

The RPA is guilty of human rights violations (see section 3 on human rights), particularly in the DRC, although a human rights campaigner from the *Ligue des Droits de la Personne dans la Région des Grand Lacs* [Great Lakes Region Human Rights League] (LDGL) reports a distinct improvement in the RPA's treatment of the civilian population over the last year.

#### *Armed opposition*

Various names are given to the armed opposition to the Rwandan authorities in the DRC. The rebels style themselves the *Armée pour la Libération du Rwanda* (ALIR), being the armed wing of the *Peuple Armée pour la Libération du Rwanda* (PALIR). Their troops are made up of Hutu extremists, breaking down into ex-FAR soldiers, *Interahamwe* members, former refugees trained in the camps in the DRC and new recruits from among the population of north-western Rwanda <sup>1</sup>. They are often referred to by the international community as ex-FAR/*Interahamwe*, although that is something of a misnomer, as many have never belonged to either of those groups.

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<sup>1</sup> African Rights, Rwanda, the Insurgency in the Northwest (undated).

The Rwandan government uses the terms "*forces négatives*" [negative forces] and "*génocidaires*" [genocide perpetrators] for all of its armed (and occasionally unarmed) opponents abroad. It regards Rwandans living abroad as falling into three groups. The first group consists of former Rwandan leaders responsible for planning and in some cases carrying out the genocide. The second group is made up of people who assisted with the genocide, but not with the planning of it. Those two groups comprise (former) FAR/*Interahamwe* troops. The third group covers people not involved in the genocide and, according to the government in Kigali, includes 95% of Rwandans abroad<sup>1</sup>.

Observers report there to be three, roughly equal-sized groups of *Interahamwe* and ex-FAR members present in the DRC. The Rwandan government puts the number of rebels still operating in the DRC at 22 000 to 35 000. The first group, located in North Kivu, is on the whole poorly armed, demoralised and dispersed, after the RPA resoundingly defeated a large-scale surprise attack in November 2000, with the capture of the town of Pweto, following which one well-trained, well-armed unit (the Horizon brigade) was airlifted into North Kivu from South Kivu. The second group, located in South Kivu, is well-armed and well-trained. The third group operates alongside the Congolese army and provides its real backbone, being both well-armed and well-trained. Those groups' ability to move around very swiftly, in particular, causes the Rwandan authorities considerable concern<sup>2</sup>.

Since the resumption of the peace process, ALIR forces seem to be heading for Rwanda and Burundi, towards the border stretching between Lake Tanganyika and Lake Kivu, after apparently having been ordered out of the country by the DRC.

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<sup>1</sup> UN ECOSOC CHR, *Allocution de M. Moussalli, Représentant Spécial pour le Rwanda* [Address by Mr Moussalli, Special Representative for Rwanda] (Geneva, 29 March 2001), pp. 4-5.

<sup>2</sup> "*Le discours et la méthode*" [Discourse and method], *Jeune Afrique* [Young Africa], No 2099 (3 to 9 April 2001), p. 68.



### *Security situation*

Apart from the north-west (in Gisenyi and Ruhengeri provinces and very sporadically in Kibuye and Gitarama), the security situation in Rwanda can generally be said to be satisfactory at present, although by no means permanently stabilised.

As a result of the Rwandan army's continuing presence in the DRC, ALIR forces have on the whole been kept at bay beyond Rwanda's borders, although the *cordon sanitaire* has not proved entirely watertight, particularly in the vicinity of the Volcanoes National Park. Pushing deep into the DRC, the Rwandan army long held territory many times as large as Rwanda itself. Rwanda argues the military strategic need to be present so far inside the DRC, for control of airfields. As the Rwandan army had to operate at the front, this gave the *Interahamwe* a chance to conduct operations behind its lines and hence closer to the Rwandan border.

As a result of developments in the DRC and ensuing pressure on Rwandan militias to leave the Congo, incursions into north-western Rwanda<sup>1</sup> from the DRC began again in June 2001 for the first time since late 1999, with the militias committing robberies, in particular, inside Rwanda. The Rwandan army carried out extensive operations to counter rebel infiltration. Within the space of a few weeks, over 700 rebels were killed and over 200 taken prisoner, including many minors. By July 2001 the army claimed to have the situation in the north-west under control again.

From June 2001 on, a stream of ALIR fighters and other Rwandan refugees began returning<sup>2</sup>. They turned out to have a completely distorted picture of the situation in Rwanda<sup>3</sup>. In spite of these developments, the continuing threat of thousands of rebels in the DRC does still have to be faced. Those now returning were probably least involved in the genocide and have little to fear upon reintegration. There are also reports of rebels, after unsuccessful attempts to infiltrate, heading back to the DRC to reinforce ALIR ranks.

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<sup>1</sup> Gisenyi and Ruhengeri provinces and sporadically Kibuye and Gitarama.

<sup>2</sup> A month later, in July 2001, 1 400 had been taken in.

<sup>3</sup> See footnote 3 on p. 41.

The Rwandan government believes ALIR forces to have been ordered out of the DRC by the Congolese government in Kinshasa, lest it be held responsible for disarming those "*forces négatives*", as provided in the Lusaka agreement. In withdrawing towards Rwanda and Burundi, though, the forces are said by the Rwandan government to be receiving logistical support from the Congolese army. This is denied by the DRC government, although it does confirm its support for the Congolese Mai Mai, fighting against the RPA <sup>1</sup>. The Rwandan army has stated that it will not withdraw from the DRC, until ALIR forces no longer pose any threat to Rwanda.

In July 2001 the ALIR chief of staff, Peter Habimana (also known by his *nom de guerre*: Colonel Bemera), was arrested in north-western Rwanda, after a Rwanda civilian who had given him shelter tipped off the army <sup>2</sup>. The local population, often siding with the rebels during the uprising in the north-west (1996-1998), were more ready to alert the Rwandan army on sighting rebels at the time of the raids in June and July 2001 <sup>3</sup>. They were later expressly commended for this by the government, which is also attempting to persuade the population in the Cyangugu region not to succour the rebels, should they arrive at the Rwandan border there. As a precaution, the army has now heavily stepped up its presence in Cyangugu, which also adjoins the DRC, as well as deploying a battalion along the border with Tanzania. The fear is that, if the rebels put Rwanda under pressure from the DRC, this will also set off the refugees in Tanzania.

After the incursions from May to July 2001, the north-west of Rwanda has now somewhat quietened down again, although it is not entirely clear whether there are still some rebels holed up in the forests. Most of those who survived the fighting have given themselves up or returned to the DRC. The threat of incursions remains, in spite of the casualties sustained by the rebels. In this, the situation in the north-west differs from that in other parts of the country.

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<sup>1</sup> Reuters (26 July 2001).

<sup>2</sup> IRIN-CEA (16 July 2001).

<sup>3</sup> Reuters (21 May 2001), AP (22 May 2001) and IRIN-CEA (23 May 2001).

Outside the north-west, the security situation is satisfactory everywhere, although ex-soldiers do sometimes engage in robbery, murder, rape and assault. There are minor offences committed each week, with armed robberies, assaults and murders occurring on average once every two months. One of the reasons for such incidents lies in demobilisation not always being carried out entirely in accordance with the rules. LDFs pose another problem, also being guilty of robbery, rape and sometimes murder, especially in the north-west of the country<sup>1</sup>. Soldiers and LDF members are constantly being apprehended and brought to justice, but minor offences in particular often go unpunished.

Owing to the threat still represented by rebel groups in the DRC, Rwanda does not as yet enjoy any lasting stability.

## **2.5. Socio-economic developments**

Most Rwandans are subsistence farmers. There can be little doubt that shortage of farming land was one of the underlying causes of the war and genocide from 1990 to 1994. Over the generations, Rwanda's land has become so fragmented as now to show little productivity. Rwanda's population, currently standing at around 8,3 million, is expected to reach 10 million in 2005. Designed to combine resettlement with land redistribution, *imidugudu* have not brought any solution to the land shortage problem. There is still no integrated policy on settlement, land distribution, agriculture and other economic activities. Nor is there any land tenure law regulating ownership of land, with virtually no investment therefore going into areas other than subsistence farming. Establishment of land ownership, however, would be likely to heighten tension between Hutus and Tutsis, there being many disputes between former refugees and those currently farming land.

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<sup>1</sup> From May to September 2001 *Liprodhor* recorded 20 killings by LDF members in the north-western provinces of Gisenyi and Ruhengeri.

Rwanda experienced a drought year in 2000. The resulting shortfall in agricultural output, coupled with a rise in the dollar and in oil prices, brought an economic downturn. Inflation was kept down to 3%, however, while gross domestic product (GDP) grew by 5,8% <sup>1</sup>.

In recognition of the economic policy followed over the last few years and in spite of the Rwandan army's presence in the DRC, donors decided in November 2000 to grant Rwanda substantial debt relief, representing about 71% of its total debt. This relegates debt servicing from third to thirteenth place in the league table of expenditure to be met by the Rwandan authorities, a table topped by education and defence. The funds thus released for domestic investment are to be used according to plans mainly for education, health care and drinking water provision <sup>2</sup>.

Rwanda's two main export products are coffee and tea, exports of which account for around three quarters of national income <sup>3</sup>. One aspect of the economic reforms being carried out by the government involves privatisation of state corporations, in which some progress has been made of late. Initial investment in coffee-growing has already borne fruit, with investors now lining up for tea-growing and the energy and telecommunications industries, due to be privatised during 2001 and 2002 <sup>4</sup>.

In May 2002 Rwanda received an IMF mission, which found it to be fulfilling the performance indicators set. The country's true performance remains shrouded in some uncertainty, however, on account of as yet unpublished auditors' reports. According to well-informed sources, those audits reveal flawed accounting systems and even improper use and diversion of funds.

Rwanda ranks 152nd in the Human Development Index for 2001.

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<sup>1</sup> "À quand les investisseurs?" [When will they invest?], *Jeune Afrique*, No 2009 (3 to 9 April 2001), p. 73.

<sup>2</sup> "À quand les investisseurs?", *Jeune Afrique*, No 2009 (3 to 9 April 2001), p. 73.

<sup>3</sup> Ibid., p. 80.

<sup>4</sup> Ibid., pp. 74-75, and EIU, *Rwanda Country Profile 2001-2002* (2001), p. 20.

## 2.6. Conclusions

In June 2001 incursions by the armed opposition, located in the DRC since 1994, resumed for the first time since late 1999. Following something of a revival of the peace process after the killing of Kabila senior, ALIR forces seem to be making for Rwanda and Burundi.

Except for the north-west, the security situation in Rwanda is on the whole satisfactory, but by no means permanently stabilised.

The Rwandan government has placed the reconciliation process on the political agenda, although underlying issues behind the genocide, such as shortage of farming land, still remain unresolved. The contribution made to reconciliation by *imidugudu* is also limited, as only a minority of such villages are mixed-race, even though the government puts reconciliation forward as one of the resettlement scheme's aims. Nor is the distribution of resources between the various population groups always even-handed. The ICTR, lastly, one of whose tasks is to bring about reconciliation in Rwanda, has had little success in doing so. The view generally taken in Rwanda sees little in the way of reconciliation to be expected from the ICTR. Rather than bringing the Rwandan people together, the ICTR is regarded by one side as staging political show trials and by the other as playing down criminals' misdeeds.

The start-up of the special *gacaca* courts to try genocide suspects, originally scheduled for late 2000, was postponed until 2002 as a result of considerable disquiet among the population, which has since largely subsided. In November and December 2000 a pre-*gacaca* trial was held for 3 434 prisoners, just over 7% of whom were eventually released straight away. The *gacaca* legislation was published in the official gazette in March 2001 and the lay magistrates elected in October 2001.

With the introduction of *gacaca* courts in prospect, the ranks of genocide suspects making confessions are swelling rapidly, as cases are now expected to be disposed of with dispatch.

In 2000 the government began implementing the programme of resettlement in *imidugudu* with less pressure and urgency, although forcible relocation was still practised, even in the second half of 2000. Moreover, the rights of *imidugudu* residents and people required to give up land have still not been settled.

The first *secteur* and district elections since 1994 were held in March 2001. As in the 1999 local elections, political parties were not allowed to campaign or put up candidates, although this time polling was by secret ballot. In the election of executive committees, however, 90% of the electoral college consisted of local representatives elected in public at the previous elections, thus leaving the newly elected representatives with precious little influence.

Although political parties were not allowed to have any hand in proceedings, the RPF reportedly did in some cases bring pressure to bear on certain candidates to withdraw or join the RPF.

### 3. Human rights

#### 3.1. Safeguards

##### 3.1.1. Constitution

The Constitution specifies that all citizens are equal before the law, without discrimination on grounds of race, colour, origin, ethnicity, clan, gender, opinion, religion or social status. Torture is forbidden.

The present Constitution of Rwanda is known as the *Loi Fondamentale de la République rwandaise*. This Law, which was adopted by the Parliament in May 1995, is based on the Constitution of 1991 (introducing the multi-party system), the Arusha agreements of 1993, the RPF's declaration following the victory in 1994 and agreements reached between the political parties (with the exception of the MRNDD and the CDR) at the end of 1994<sup>1</sup>. It is based on the general principles of the rule of law, national unity, pluralism and respect for human rights. The *Loi Fondamentale* includes provisions confirming that all citizens are equal and that it is necessary to respect the fundamental rights of individuals as laid down in the Universal Declaration of Human Rights and in the African Charter on Human and Peoples' Rights. The Law also recognises the right of Rwandan refugees to return to their country. Refugees who fled Rwanda ten or more years ago, or their descendants, will not be given back their former possessions on return, but offered land elsewhere by the Government. The Law incorporates the provisions of the Arusha agreements which will have to be given form by democratic developments in Rwanda.<sup>2</sup>

As an element of government strategy for the current transitional phase, the Constitution Review Commission was set up at the end of December 1999.

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<sup>1</sup> [Africa South of the Sahara 2000, Rwanda](#), p.884

<sup>2</sup> Martin Imbleau and William A. Schabas, Les éditions Yvon Blais inc., [Introduction au droit rwandais](#) [Introduction to Rwandan law] (1998)

### 3.1.2. Conventions

Rwanda has signed and ratified the major international conventions on refugees and human rights: the UN Convention relating to the Status of Refugees, the Organisation of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights, the Convention on the Rights of the Child, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Discrimination against Women and the four Geneva Conventions with the two Additional Protocols of 1949. Rwanda is not a party to the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Rwandan authorities have for some considerable time now failed to meet their obligation to report back to monitoring bodies.

### 3.2. Monitoring

The Rwandan Constitution (*Loi Fondamentale*) provides for a National Human Rights Commission. This Commission began its work in May 1999 when the seven members were elected by the Parliament from a short list of ten drawn up by the Government. The Commission's task is to investigate violations of human rights and to develop human rights education for the Rwandan population. The Chairman has the rank of Minister. For the present the Commission has a three-year mandate. The Commission's budget forms part of the national budget<sup>1</sup>. Two of the Commission's members have been human rights activists in the past. Four of the members have been recruited from government circles. In July 1999 all members were given training in human rights.

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<sup>1</sup> *Het Grote Merengebied; een regionaal perspectief* (1999)



The Commission's annual report for 2000 was regarded as a pleasant surprise by human rights organisations and other observers. The Commission had been heavily criticised following the annual report for 1999<sup>1</sup> and stories of internal wrangling. But the second annual report has considerably restored faith in the Commission. The difference lay in the way in which human rights violations were reflected in the report, which indicated the type and nature of the violations and the actions taken by the Commission. The recommendations were also a new feature. The Commission seems to be taking political risks and is apparently being given the leeway to do so. So far the Commission has arranged training in human rights for police officers of all ranks, 500 non-commissioned army officers, secondary-school pupils and students of the University and the Health Institute in Kigali. Training has been provided by staff of the Ministry of Justice and Social Affairs, but also by representatives of Human Rights Watch, the Red Cross, the University of Rwanda and the International Tribunal for Rwanda<sup>2</sup>. Investigations have also been conducted into unlawful detentions, disappearances, torture, disputes over property and cases where the judicial process was not carried out in accordance with the rules. A start has also been made on evaluating the conditions in prisons and *cachots* (short-stay local detention centres)<sup>3</sup>. In March 2001, the National Human Rights Commission initiated an investigation into complaints about the way the elections in that month were conducted. A report on the results of these activities has yet to appear.<sup>4</sup> In July 2001 the Commission opened ten provincial branches in the more distant provinces.<sup>5</sup>

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<sup>1</sup> This was the Commission's first annual report

<sup>2</sup> UN ECOSOC CHR, *Situation des Droits de l'Homme au Rwanda* [Situation of human rights in Rwanda] (2001), p.8

<sup>3</sup> Ibid., p.9

<sup>4</sup> Ibid., p.8

<sup>5</sup> IRIN (10 July 2001)

Various local NGOs operate with very limited resources and in a politically precarious context. There are eight human rights NGOs in Rwanda. The *Ligue pour les Droits des hommes dans la région des Grands Lacs* (LDGL; a regional umbrella organisation), the *Ligue pour la promotion et la défense des droits de l'homme au Rwanda* (Liprodhor), *Haguruka* (womens' rights), *Kanyamateka* and the umbrella organisation *Comité des Ligues et des Associations des Droits de l'Homme* (CLADHO) are NGOs that are active. The other three organisations, the *Association rwandaise pour la Défense des droits et des Libertés de l'homme* (ADL), the *Association rwandaise pour la défense des droits de l'homme* (Ardho) and the *Association des Volontaires pour la Paix* (AVP) are short of funds and qualified staff and therefore have trouble surviving<sup>1</sup>.

Most organisations refrain from being too critical of the authorities or the army. There have been cases where the government has tried to gain a hold over the activities of these organisations by appointing members of the staff or administration.

Some of the above NGOs have published reports on such topics as the situation in the northwest, the elections, the *imidugudu* policy and prisons. Liprodhor is keeping track of the genocide trials, visits prisons and keeps an eye on those released after they return to their villages<sup>2</sup>. Since a critical report on the situation in prisons, it has been made virtually impossible for this human-rights organisation to function. A number of prefects have prohibited visits by the organisation to prisons and *cachots*.

International human rights organisations such as Amnesty International (AI) and Human Rights Watch (HRW) regularly publish reports on Rwanda based on visits and contributions by local NGOs. AI representatives were given entry visas for the first time in 1999. African Rights has an office in Kigali.

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<sup>1</sup> *Het Grote Merengebied; een regionaal perspectief* (1999)

<sup>2</sup> HRW, *Rwanda World Report for 1999. Human Rights Developments* (2000)

In June 2001 the mandate of the UN Special Representative for Human Rights in Rwanda was not extended despite EU opposition to ending the mandate <sup>1</sup>. This means that Rwanda will no longer be the subject of particular attention by the UN as regards human rights. The Special Representative was appointed in July 1998 after the United Nations Human Rights Field Operation (UNHRFO) was forced to stop its work. The UN and the Rwandan government had failed to agree on the new mandate. The Rwandan government took the view that it did not need to be monitored. It felt that the UNHRFO was concentrating too much on the human rights situation and too little on education in human rights and investigation into genocide. The ending of the UNHRFO mandate prompted considerable international criticism of the Rwandan government <sup>2</sup>. Since then the UN Special Representative for Human Rights in Rwanda has drawn up annual reports based on visits to the country. His task was to make recommendations concerning the human rights situation in Rwanda, promote the setting up and independent functioning of the National Human Rights Commission and make recommendations in situations where technical assistance to the Rwandan government might be useful <sup>3</sup>.

### 3.3. Observance and violations

This section deals with observance and violations of the various asylum-related human rights. There will not be a separate examination of violations by the Rwandan army in the DRC. These are dealt with in the general situation report on the DRC. The Rwandan government concedes that there have been violations of human rights in the area jointly controlled by the RPA and the Congolese rebel RDC movement. It points out that such violations were committed by individuals in the army and not by the army as an institution <sup>4</sup>. There have been cases where RPA soldiers have been brought to justice for human rights violations by the military court.

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<sup>1</sup> The Netherlands advocated extending the mandate.

<sup>2</sup> *Het Grote Merengebied; een regionaal perspectief* (1999).

<sup>3</sup> UN ECOSOC CHR, Report on the situation of human rights in Rwanda (2000).

<sup>4</sup> DoS, Human Rights Report for Rwanda-2000 (2001).

### 3.3.1. Freedom of expression

The Constitution (*Loi Fondamentale*) provides for freedom of the press. In practice, however, this right is severely restricted by the authorities. Freedom of expression remains a delicate issue given the role of the media in the genocide. Work is under way on a new law governing the press.

There has been very close consultation between the *Association Rwandaise des Journalistes* (ARJ) and the Ministry of Information on the new bill governing the press. Representatives of the press were initially satisfied with the bill, which will authorise more radio stations and more freedom of expression<sup>1</sup>. However, the bill as submitted to the Parliament in June 2001 included the possibility of imposing the death penalty on any Rwandan journalists responsible for incitement to genocide. In its protest against the bill, the ARJ pointed out that the possibility of the death penalty had never been discussed in earlier consultations with journalists<sup>2</sup>. There has been an in-depth discussion of the provision in the Parliament but this has not lead to any changes to the bill.

National radio and television are in State hands. The director of the national broadcasting corporation is also the government's spokesman. The *BBC World Service*, the *Voice of America*, *Radio France International* and the *Deutsche Welle* can be heard on FM. There are some weekly newspapers in English, French or Kinyarwanda. There are no daily newspapers. Critical publications and foreign daily and weekly papers are available uncensored in bookshops. The written press is only read by a small proportion of the Rwandan population.

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<sup>1</sup> UN ECOSOC CHR, *Allocution de M.Moussalli, Représentant Spécial pour le Rwanda* (2001), p. 4

<sup>2</sup> IRIN-CEA (26 June 2001)

Most journalists practice self-censorship for fear of reprisals. There are cases where they are subjected to outside pressure. There are reports of anonymous threats, which have prompted a few journalists to leave the country. A number of topics are taboo, e.g. the return of the king, political opposition and the war in the DRC. It has been known for the government to put pressure on advertisers not to have any more advertisements printed in a paper which is considered too critical. This can cause the paper to get into financial difficulties and cease publication <sup>1</sup>.

Intimidation often seems to be a decisive method of gagging journalists (see also section 3.4.6 Opponents of the government). No journalists were imprisoned last year. Experience in previous years has however shown that they can be detained for periods ranging from a few months to a few years. A careful eye is kept on journalists who are released.

The professional organisation of journalists, the *Association Rwandaise des Journalistes* (ARJ) has been temporarily authorised by the authorities as long as the 1999 Law requiring registration has not yet come into force (see also section 3.3.2 Freedom of association and assembly).

The authorities are the only Internet provider, but in 2000 several licences were issued to undertakings which want to provide Internet facilities in the future.

Academic freedom is generally respected.

### **3.3.2. Freedom of association and assembly**

The law guarantees freedom of peaceful assembly, but in practice this right is restricted. Meetings and demonstrations have to be notified in advance and demonstrations against the authorities are not allowed. In practice the only demonstrations which take place are those instigated by the authorities. There are no known cases of authorisation to hold a demonstration being refused. Meetings in the evening and at night are generally forbidden.

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<sup>1</sup> UN ECOSOC CHR, *Situation des Droits de l'Homme au Rwanda* (2001), p.17

In April 2001 a Law came into force which requires registration, and application for authorisation, by all NGOs <sup>1</sup>. The Law gives authorities the possibility of banning an NGO's activities for reasons of State interest and national security. Without authorisation an NGO cannot embark on any activities or apply for funds. Local NGOs have protested against this Law on the grounds that it curbs their freedom. They claim, for example, that it is impossible to appeal against a decision by the authorities not to recognise a particular association <sup>2</sup>. NGOs have until April 2002 to comply with the requirements of the Law. A Decree to clarify and implement the Law is in preparation. There has been open discussion with international NGOs on the content of the Decree.

In Rwanda there are various interest groups. The most important organisation of survivors of the genocide, Ibuka, vigorously promotes the interests of its supporters. A number of women's organisations are active <sup>3</sup>.

The human rights organisation Liprodhor has in practice been prevented from operating since a critical publication on prisons. A number of *préfets* have prohibited the organisation from visiting prisons and *cachots*. The general assembly of Liprodhor was forbidden by the police. Individual members are not experiencing any interference with their activities by the authorities, but one person within the organisation has had problems with the authorities as a result of (other) political activities. The authorities are demanding that Liprodhor dismiss that person.

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<sup>1</sup> DoS, Human Rights Report for Rwanda-2000 (2001).

<sup>2</sup> UN ECOSOC CHR, Allocution de M. Moussalli, Représentant Spécial pour le Rwanda (2001), p. 4.

<sup>3</sup> Report on the situation of human rights in Rwanda, UN ECOSOC CHR (1999).

In 1994 following the genocide, a forum of political parties was set up in Rwanda. It was agreed in this forum that no political activities would be undertaken during the transitional period (which has in the meantime been extended until 2003). In general political parties are dormant. Persons who nevertheless engage in political activities are certain to face problems. Anything resembling opposition is placed under close observation and sometimes subjected to intimidation. An important PDC politician, the former Minister for the Interior, Gakwaya, left the country at the beginning of 2001 after experiencing too many problems with the authorities. As the result of a clash with the *préfet* of Cyangugu, Gakwaya was forced to resign as Minister for the Interior and subsequently saw no future for himself in Rwanda.

Since mid-1999, the Rwandan authorities have regarded the "king's army" as a threat to security. King Kigeri V, exiled in 1961, is currently living as a citizen in the United States. The monarchists are said to include both Hutus and Tutsis (survivors of the genocide) among their supporters. The reasons for Tutsi survivors' political opposition to the authorities include dissatisfaction with delays in bringing perpetrators of the genocide to trial, corruption in government circles, the dominance of Tutsis who have returned from Uganda and the war in the DRC.<sup>1</sup>

In 2001 former President Bizimungu was prohibited from setting up a new political party, PDR-Ubuyanja, as long as the Constitution was still in preparation. The government referred to the ban on setting up political parties during the transitional period, which had been agreed upon when Bizimungu himself was in power.

The State media have since the ban been conducting a defamatory campaign against Bizimungu. Intimidation by the authorities has now lead to some of the founding members leaving his party. Pressure has also been put on Bizimungu himself. At the end of May 2001 he was placed under house arrest for a day and stripped of the privileges he enjoyed as a former President <sup>2</sup>.

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<sup>1</sup> HRW, Rwanda: the search for security and human rights abuses (2000).

<sup>2</sup> These privileges involved an allowance, a house, home protection and transport. Such privileges are not enshrined in the law, moreover.

The political parties MRNDD, CDR and MDR-Power<sup>1</sup> – involved in planning and carrying out the genocide – are still banned (see also section 2.1.2 on history). These parties have been dissolved and former members have joined other parties.

### **3.3.3. Freedom of religion**

Freedom of religion is guaranteed by the Constitution. Religious organisations must, like any other NGOs, register and apply for authorisation. This is generally a routine matter. Jehovah's Witnesses may encounter problems arising from their principle of refusing to carry out community service or pay tax. In Ruhengeri some Jehovah's Witnesses were imprisoned for a time because of their activities. In Kigali they hold weekly meetings without major problems.

Since the tragic events in Uganda in the Spring of 2000 (the death of hundreds of members of a religious sect) the Rwandan government always keeps a careful eye on sects.

The behaviour of representatives of the Catholic church during the genocide<sup>2</sup> has led to serious rifts in Rwandan society<sup>3</sup>. Relations between the Catholic church and the government seem to be improving somewhat, but are still fraught. Representatives of the Catholic church accuse the government of prejudice against the church and are demanding the return of church buildings where murders were committed during the genocide and which are now being used as memorials. Despite this, there are no signs of any additional risks of persecution of Catholics by the authorities.

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<sup>1</sup> MDR-Power broke away from the MDR in the autumn of 1992 and joined the Interahamwe.

<sup>2</sup> In June 2001 two Rwandan nuns were sentenced in Belgium for complicity in the genocide.

<sup>3</sup> EIU, Rwanda Country Profile 2nd quarter, 1999, p.12.



#### 3.3.4. Freedom of movement

The Constitution guarantees freedom of movement. In practice, however, this is restricted by the authorities. Citizens have to identify themselves on demand. Permission to travel is not necessary, and a temporary stay away from a person's home is allowed. Persons who wish to move permanently to another *cellule* must apply for a new identity card.

Since 1998, more than 600.000 people from northwestern Rwanda have been resettled in *imidugudu* (see also section 2.1.2 on history). According to observers, they were often forced to move. The authorities no longer forbid people to leave these villages, but restricted possibilities for building new houses often compel the villagers to remain.

Every Rwandan citizen of 16 years of age or over is expected to have an identity card and carry it with them at all times. Anyone who does not have an identity card with them can be questioned by the police and may be arrested.

When identity cards were issued after 1994 it was not always possible for applicants to prove their identity and nationality by means of the birth certificate of their (fore) father. A person is granted Rwandan nationality if their father (grandfather, etc) had Rwandan nationality <sup>1</sup>. Where no definitive identification could be provided from the population register, e.g files had been destroyed, "oral testimony" was in some cases regarded as sufficient.

An identity card can be applied for from the local authorities. The mayor has to make a declaration that the applicant was born in the *commune* concerned and a declaration of good conduct. Identity papers cost the equivalent of about 14 dollars. After the genocide in 1994, ethnic background was no longer indicated on identity cards or passports. Children are included on their mother's identity card.

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<sup>1</sup> Dual nationality is not allowed in Rwanda.

Obtaining a passport has become easier over the years. For those who do not have any political contacts, however, it remains difficult to obtain a passport. Passports are issued by the immigration authorities, which are answerable to the army. A passport costs the equivalent of 100 to 150 dollars. Every Rwandan citizen in principle has the right to a passport. A passport can be obtained provided Rwandan nationality can be demonstrated and an identity card submitted. The provincial authorities have an immigration office and keep an up-to-date list of applications made and accepted. A policy of dissuasion is pursued since, for example, many intellectuals want to depart for other countries. No exit visa is required to leave Rwanda.

A Rwandan citizen can obtain a laissez-passer to visit Burundi, the DRC, Uganda, Tanzania or Kenya. It is also relatively simple to cross the border illegally. A false passport can be obtained against payment in the neighbouring countries. There are strict border controls on entry into Rwanda from Uganda and Burundi. Controls are limited at the border with the DRC. Controls at the airport are strict and conducted by both the airlines and the police. There is very little chance of leaving Kigali airfield without going through controls and it is normally impossible for an unaccompanied minor to go through customs.

Dissuading people from leaving is directed in particular at leading politicians, journalists or (former) members of the military. Security services have put pressure on the families and friends of people who have left and harassed them in order to obtain information or because they helped the people to leave <sup>1</sup>.

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<sup>1</sup> HRW, Rwanda: the search for security and human rights abuses (April 2000).

### 3.3.5. Judicial process

#### *Judicial process in genocide cases in Rwanda*

The Constitution provides for an independent judiciary. Such independence is, however, in practice influenced by the executive authority, and is affected by a lack of resources and efficiency, not to say corruption. Corruption is being tackled by an Anti-Corruption Commission, which made some progress last year. Several prosecutors and magistrates were dismissed or suspended in 2000 for corruption, and others on suspicion of complicity in the genocide. There were reports that some were dismissed on the basis of unfounded accusations <sup>1</sup>.

In February 2001 the number of prisoners remanded in custody on suspicion of genocide was estimated at 110 000. Between December 1996 and the summer of 2001 some 4 500 people were brought to justice. Of these 12% were sentenced to death, 28% to life imprisonment, 40% to various terms of imprisonment and 17% were released. In 2000 the number of judgments was double that in the previous four years. This is a trend which will continue in 2001. However, the maximum number of people who can be brought to justice each year cannot exceed 2 500 as things stand. Without *gacaca* it would be another 40 years before all suspects were brought to justice. The Public Prosecutor's Office is in the process of completing all dossiers on genocide suspects. In July 2001 the figure for completed dossiers was 50.000. If no charges can be found, the suspect is brought before the inhabitants of his *commune*, and released if they too have no charges to bring. According to Human Rights Watch, in some cases persons who had been acquitted were never released or were rearrested after release. The official explanation was that the security of those acquitted could not be guaranteed <sup>2</sup>. In some cases people rearrested on the same grounds were released by order of the Public Prosecutor. People released have in some cases found it difficult to function normally in Rwandan society. In general, however, a report by Liprodhor shows that prisoners who have been released tend to be left alone.

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<sup>1</sup> DoS, Human Rights Report for Rwanda-2000 (2001).

<sup>2</sup> HRW, Press release for Rwanda (1 February 2001).

*Avocats sans Frontières* ensures that nearly all genocide suspects who have to appear in court are actually provided with defence. The lawyers also accompany trainees from Butare Law Faculty. In addition they work together with about a hundred *défenseurs judiciaires* [defence counsels] who have had accelerated training at the Danish Centre for Human Rights <sup>1</sup>.

Elections of *gacaca* judges were held in October 2001. The *gacaca* trials will probably start at the beginning of 2002. The new *gacaca* will be able to seek assistance from legal advisers designated by the Supreme Court. The Public Prosecutor will also participate in investigations, supply dossiers and appear as a witness against the accused. It is possible to appeal in the *gacaca*, but the suspect has no right in the *gacaca* to legal aid. It is hoped that involvement of the population in the *gacaca* will allow as much of the truth as possible to be revealed (see also section 2.3 on Political developments).

#### *International Criminal Tribunal for Rwanda*

In June 2001 the International Crisis Group (ICG) issued a report on the ICTR. Among the Tribunal's achievements it noted the recognition of genocide by international law, the arrest and prosecution of persons who would never have been brought to trial without the International Tribunal and the international condemnation of the ideology of Hutu supremacy <sup>2</sup>. Rape has for the first time been regarded as a possible aspect of genocide. In addition, Jean-Pierre Kambanda is the first head of government to have been found guilty of genocide and crimes against humanity <sup>3</sup>. The most important criticism made was the continuing slowness of the Tribunal's work. This is the result of three factors, dependence on the cooperation of autonomous States, relations between the Tribunal and Rwanda and internal factors in the functioning of the Tribunal.

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<sup>1</sup> F.Mascini, "*Rwandese ambtenaren verdienen niet genoeg om te eten*", Internationale Samenwerking (November 2000), p. 35.

<sup>2</sup> ICG, *Tribunal Pénal International pour le Rwanda: L'Urgence de Juger* (2001), pp.9, 10.

<sup>3</sup> Letter to Parliament from Van Oven & Co concerning the Rwanda Tribunal (5 July 2001), reply to question 3.

Firstly, the Tribunal is dependent on individual States in such matters as arrest, protection of witnesses, extradition and capture. Lack of cooperation has meant that a number of prime suspects have for years been able to keep moving between the DRC, Gabon, Kenya or indeed France and Belgium <sup>1</sup>.

Secondly, relations between the judges of the Tribunal and the Rwandan government were fraught for a long time following the acquittal of Jean-Bosco Barayagwiza on technical grounds in 1999.<sup>2</sup> At the end of 2000 and in the course of 2001 relations have considerably improved. In mid-2001 they were described by Chief Prosecutor Carla del Ponte as good.

Good relations with Rwanda are of the greatest importance for the Tribunal given the fact that nearly all prosecution witnesses live in Rwanda and the Tribunal could not conduct the trials without them.

The overall feeling in Rwanda is that little can be expected of the Tribunal. Instead of uniting the Rwandan population, it is seen on the one hand as a showcase for political trials and on the other as a place where criminal's deeds are played down.<sup>3</sup>

At the end of 2000 the judges of the Tribunal visited scenes of the genocide. They were criticised for doing so. The judges had talked to the population in the absence of defence and prosecuting lawyers. Although the visits were seen as very useful for the purpose of raising awareness of justice and reconciliation among the population, they did not enhance the sense of integrity of the judicial process.

The third reason for the slowness of the ICTR trial procedure is the existence of an internal power struggle and the question of jurisdiction. The geographical location of the Tribunal (Kigali, Arusha and The Hague) <sup>4</sup> also means that there are delays because judges and lawyers are absent for long periods of time.

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<sup>1</sup> ICG, *Tribunal Pénal International pour le Rwanda: L'Urgence de Juger* (2001), p. II, 2.

<sup>2</sup> That judgment was later annulled and Barayagwiza found guilty.

<sup>3</sup> ICG, *Tribunal Pénal International pour le Rwanda* (2001), p. 31.

<sup>4</sup> Arusha is where the cases are tried; the Chief Prosecutor of the Tribunal, who is also Chief Prosecutor for the Yugoslavia Tribunal, is based with her administration in The Hague; and in Kigali the ICTR has an office responsible for tracing and accompanying witnesses and maintaining contacts with the Rwandan authorities.

Since the end of 2000 the ICTR seems to be carrying out its tasks more successfully. Before 2001 there were 10 trials scheduled with 26 suspects (of the 44 suspects still detained). In April 2001 an Anglican Bishop was arrested in Nairobi on suspicion of genocide <sup>1</sup>. In May 2001, Simeon Nshamihigo, a former investigator for the Tribunal, was arrested on suspicion of complicity in the genocide <sup>2</sup>. In June 2001, three suspects were arrested in Europe. A fourth suspect in Italy could not be apprehended owing to lack of cooperation by the Italian authorities <sup>3</sup>. In the same month two former mayors were apprehended in a refugee camp in Tanzania <sup>4</sup>. In July four of the ICTR's defence investigators were dismissed on suspicion of complicity in the genocide. Rwanda has asked the Tribunal to arrest all four and bring charges <sup>5</sup>.

Chief Prosecutor Carla del Ponte reached agreements in December 2000 with President Kagame on cooperation by Rwanda in the prosecution of RPA soldiers who had been guilty of crimes in 1994 <sup>6</sup>. There is a properly functioning witness-support programme to assist witnesses. Having to face an imposing Tribunal and the perpetrators can be highly traumatic for victims of e.g. rape. If they are accompanied when travelling and seeking accommodation, the trauma can be reduced. The new Registrar of the ICTR has announced a number of measures designed to reduce corruption through abuse of the system of legal aid. Lawyers for the defence, for example, used gifts to try and persuade suspects to call on their services, as defending ICTR suspects was a lucrative business. This is a practice which has now been curbed <sup>7</sup>.

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<sup>1</sup> ANP (27 April 2001).

<sup>2</sup> IRIN-CEA (1 June 2001).

<sup>3</sup> Reuters (12 July 2001).

<sup>4</sup> Reuters (21 June 2001).

<sup>5</sup> IRIN-CEA (20 July 2001).

<sup>6</sup> The ICTR's mandate – in 1994 – was the result of a compromise. When the Tribunal was set up, the RPF wanted it to deal with the period both before and during the genocide. Other groups wanted a mandate which only began with the genocide and was open-ended. ICG, *Tribunal Pénal International pour le Rwanda* (2001), pp.3, 10.

<sup>7</sup> IRIN-CEA (14 June 2001).

### *Military courts*

The War Council and the Military Court apply the genocide law in the case of acts committed by members of the military, and they apply it strictly. The same bodies deal with acts of violence by members of the military against citizens. Although such acts are dealt with equally strictly by these courts, far fewer cases of violence than are reported come to trial.

### *The judicial process in regular cases*

Reestablishing the ordinary administration of justice has now got through the crucial stage, except at very local level where there are as yet no courts functioning. At the moment, disputes over e.g. land, which are very frequent in Rwanda today, are of necessity being resolved by the local authorities. The administration of justice is inefficient and lacking in strict management and supervision, as well as being short of resources. Corruption is a problem. Magistrates also complain of interference by the authorities <sup>1</sup>.

### **3.3.6. Arrest and detention**

In Rwanda a large number of people are in prison (about 125.000). The great majority of prisoners are accused of genocide. Many have been held for years without charge, evidence or trial. The maximum period of detention has been repeatedly extended, which must be seen as conflicting with the internationally accepted human rights enshrined e.g. in the International Covenant on Civil and Political Rights. The danger of deprivation of freedom without fair trial still exists in Rwanda today. Unlawful imprisonment (i.e. without fair trial) is "usual" in Rwanda according to the National Human Rights Commission in its report on 2000. A large number of people have been arbitrarily arrested. Some have been released, but then rearrested shortly after. Others have been kept imprisoned despite the fact that they have been acquitted. An unknown number of citizens are being unlawfully held under military surveillance <sup>2</sup>.

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<sup>1</sup> ICG, Five years after the genocide in Rwanda (1999).

<sup>2</sup> DoS, Human Rights Report for Rwanda-2000 (2001).

Although there have been fewer cases recently, people are still being arrested on accusations of involvement in the genocide.

The Constitution prohibits arbitrary arrest and detention. Under the law a case must first be investigated and then an arrest warrant can be applied for in order to arrest the suspect. A person may be detained for up to 48 hours without an arrest warrant; they must be charged within five days of the arrest. Security services may not keep anyone in custody. These guarantees are widely ignored. The National Human Rights Commission has denounced these practices in its report on 2000. The police, security services and army were all guilty in the reporting period of arbitrary arrest and detention. When the authorities wish to keep certain persons in custody for a longer period, involvement in the genocide is often used as the pretext for the charge. Other grounds cited are corruption and support for the Rwandan royal family. There is often no satisfactory foundation for such charges.

#### *Situation in prisons and detention centres*

Looking after 125 000 prisoners puts a heavy burden on the Rwandan government's budget. In 2000 the number of prisoners released was 5 000, while there were 2 500 new arrests <sup>1</sup>.

Five percent of the government budget is spent on the prisons. In February 2001, however, Human Rights Watch reported that the Ministry responsible had still received only half the allotted amount <sup>2</sup>. Much of the food supply is paid for by the International Red Cross <sup>3</sup>.

In the prisons and *cachots* there is ill-treatment and intimidation. There are routine beatings in prisons and *cachots*, particularly during interrogations. The seriousness of the ill-treatment depends on the policeman or guard involved.

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<sup>1</sup> UN ECOSOC CHR, *Situation des Droits de l'Homme au Rwanda* (2001), p. 13.

<sup>2</sup> HRW, *Press Release on Rwanda* (1 February 2001).

<sup>3</sup> F. Mascini, "*Rwandese ambtenaren verdienen niet genoeg om te eten*" *Internationale Samenwerking* (2000), p. 35.



One indicator of the general situation in the prisons is the mortality rate among prisoners <sup>1</sup>. In 1999 there seems to have been a fall in the number of deaths, from ca. 3 300 (+/- 3%) to ca. 1 100 (1%). Since then that number has remained stable; in 2000 the US Department of State also announced about 1 100 deaths <sup>2</sup>. Most of the 1 100 deaths among prisoners in 2000 were the result of curable diseases, HIV/AIDS and the cumulative effects of overcrowding <sup>3</sup>.

The situation in the *cachots* <sup>4</sup> is worse than in the prisons. The *cachots* were originally used as accommodation for a few days before prisoners were transferred to prisons. Owing to overcrowding in the detention centres, however, this proved impossible with the result that many prisoners have already been living in the *cachots* for seven years. One of the specific problems of the *cachots* is that they are not directly covered by the Government budget, but by the district budget, which is insufficient. The prisoners depend for food and health care on their families and a few social organisations. According to reports 30% of prisoners are undernourished<sup>5</sup> and there are cases of people dying of exhaustion and hunger.

Since conditions in the *cachots* are so bad, the authorities have decided to transfer as many prisoners as possible from the *cachots* to the regular prisons. Between 1999 and 2001, the number of prisoners in *cachots* fell to about 10 000 people and the number of *cachots* in use fell from 133 to 95. This has somewhat eased the overcrowding in the *cachots*. When prisoners are transferred to prisons, each dossier is examined to see whether it can be dealt with by the *gacaca* <sup>6</sup>.

A different problem arises with the 5 500 women in prison, about 600 of whom have young children. In most cases they have a separate section, but rape by warders or male prisoners remains a serious problem. It is women and children who suffer most both physically and psychologically from the overcrowding in the prisons <sup>7</sup>.

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<sup>1</sup> Ibid.

<sup>2</sup> DoS, Human Rights Reports for Rwanda 1998, 1999 and 2000 (1999, 2000, 2001 resp.).

<sup>3</sup> Ibid.

<sup>4</sup> *Cachots* are short-stay local detention centres.

<sup>5</sup> UN ECOSOC CHR, Situation des Droits de l'Homme au Rwanda (21 March 2001), p. 14.

<sup>6</sup> Ibid., p. 13, in "En attendant le verdict" Jeune Afrique, No 2099 (3-9 April 2001), p. 89.

<sup>7</sup> ICG, Five Years after the genocide in Rwanda (1999).

The Red Cross, diplomats and journalists are regularly allowed access to the prisons. The human rights organisation Liprodhor, however, has been prohibited from visiting prisons since a critical report on the situation there. The Red Cross also visits the *cachots* and the military detention centres <sup>1</sup>. Penal Reform International (PRI) is a specific development organisation which tries to help resolve the problems in the overcrowded prisons. PRI gives management courses to prison directors, trains prison warders and sees that prisoners can work outside the prison. The Ministry for the Interior has neither the capacity nor the resources to carry out such a programme.<sup>2</sup>

### **3.3.7. Ill-treatment and torture**

The Constitution prohibits torture. However, hitting or beating on arrest or during custody are very frequent occurrences. In a number of cases torture by the police or army has been so serious that it has resulted in death <sup>3</sup>. Some prisoners die as a result of ill-treatment by corrupt prison warders (see also section 3.3.6 Arrest and detention) <sup>4</sup>.

### **3.3.8. Disappearances**

In the first few months of 2001, a demobilised army officer and an ordinary citizen disappeared.

The disappearance of former Minister for the Interior Gakwaya in April 2001 has been explained.

According to the most recent reports he has fled to Uganda.

On the basis of interviews with inhabitants of Kibungo Prefecture, human rights organisations have reported the disappearance of a number of Hutus, in particular boys and small traders from their homes and prisons <sup>5</sup>.

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<sup>1</sup> DoS, Human Rights Report for Rwanda-2000 (2001).

<sup>2</sup> F. Mascini, "*Rwandese ambtenaren verdienen niet genoeg ome te eten*" Internationale Samenwerking (2000), p. 35.

<sup>3</sup> DoS, Human Rights Report for Rwanda-2000 (2001).

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

### **3.3.9. Extra-judicial executions and killings**

Individual members of the RPA military and the Local Defence Forces continue to be guilty of committing murders. Action is frequently taken against this.

### **3.3.10. Capital punishment**

The Constitution provides for the death penalty for perpetrators of genocide in category 1 (for the way genocide suspects are categorised, see section 2.1.2 on history). The Penal Code provides for the death penalty for murder.<sup>1</sup> Desertion is also subject to the death penalty.

Both the civil and the military courts impose death sentences for genocide or serious misdeeds.

There are, however, no figures available. Since April 1998, the death sentence has no longer been carried out. But the government has never indicated that death sentences will not be carried out.<sup>2</sup>

Death sentences by military courts for criminal acts during campaigns in the DRC are carried out.

No figures are available.

## **3.4. Position of specific groups**

### **3.4.1. Hutus and Tutsis**

As is clear from what has been said, ethnic divisions are not the only ones in Rwandan society and Hutus and Tutsis are not monolithic sectors of the population. Moreover, the difference between these two groups is relative: there has been intermarriage for generations. Since 1994, it is official government policy to ban ethnic discrimination. Ethnic origin is therefore no longer registered. It is estimated that 80% of the population is currently undoubtedly Hutu<sup>3</sup>.

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<sup>1</sup> ICG, Five years after the genocide in Rwanda (1999).

<sup>2</sup> AI, Rwanda, the troubled course of justice (2000).

<sup>3</sup> EIU, Rwanda Country Profile 1999-2000.

The divisions in Rwandan society have from time immemorial been not only ethnic but also social and political. Historically the Tutsis were cattle breeders who were generally richer and had more political power. The Hutus were cultivators and on average poorer and subject to political domination. Since 1994 and the return of Tutsis from the diaspora (inter alia Uganda), there has been a further division according to language and culture. Many of the returning Tutsis now have as their second language – in addition to the national language Kinyarwanda spoken by all – English instead of French, which had been the only second language in Rwanda since the colonial period.

Within the Tutsis a distinction can be made between survivors of the genocide and the "old" refugees returning from Uganda. The latter are often relatively well-educated and comfortably off. In Rwanda a large number of them have settled in Kigali and taken over the modern economy there. They are increasingly dominant in the RPF and the government.<sup>1</sup> The Tutsi survivors of the genocide are also politically (still) influential, although this group is showing increasing signs of dissatisfaction with the government's policy.

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<sup>1</sup> Before the 1990-1994 war, teaching in schools was in Kinyarwanda in elementary classes and in French in secondary. After the war, English was added and teaching in secondary classes is in principle bilingual (French and English) although this depends in practice on the availability of teachers (EIU, Rwanda Country Profile 1999-2000).

After 1994 there was a degree of political and economic marginalisation of the Hutus. Some two million Hutus fled Rwanda in 1994, but most of these have now returned. Many genocide perpetrators or suspects have been imprisoned. In addition there is a group, estimated at from 22 000 to 35 000 people, of extremist Hutus ("ex-FAR/Interahamwe") who are engaged in armed resistance to the Rwandan government. This group is now largely in the DRC. Many Hutus derive their living from agriculture and dwell in the country but there are also rich Hutus. The majority are politically moderate and prepared to share power with the Tutsis. Some do feel that they have been discriminated against by the government, e.g. in the *imidugu* policy (see section 2.3 on political developments). There is also a feeling that the authorities are not providing sufficient protection in cases of legitimate reclaiming of property. Some Hutus accuse the authorities of giving Tutsis preference when taking on staff, allowing access to vocational training and recruiting for the army. Some organisations complain that in these areas the authorities give preference to returning Tutsis. <sup>1</sup>

### **3 4.2. Twas**

The Twa community, which was estimated at 30 000 people in 1993, now probably consists of fewer than 15 000 people as a result of the genocide and flight to the DRC on the one hand and poverty and disease on the other. <sup>2</sup> This group has been marginalised in Rwanda. There is no conscious discrimination against the Twas. The National Commission for Unity and Reconciliation asked in April 2000 that attention should be paid to the Twas' situation. The National Human Rights Commission has one Twa representative. Some seven NGOs are promoting the Twas' interests. <sup>3</sup>

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<sup>1</sup> DoS, 1999 Rwanda Country Report on Human Rights Practices (2000).

<sup>2</sup> EIU, Rwanda Country Profile 1999-2000.

<sup>3</sup> UN ECOSOC CHR, Report on the situation of human rights in Rwanda (2000).

### **3.4.3. Mixed-race individuals**

Rwandans of mixed ethnic origin (Hutu-Tutsi) do not in the present situation run any particular risks in Rwanda. Where the parents are of mixed origin, a person is considered to belong to the father's ethnic group. If, however, a person has the specific physical characteristics of another ethnic group, they may be regarded by those around them as belonging to that specific group. Since 1994, ethnic origin is no longer indicated on identity cards. Neither the authorities nor the population have specific views on people of mixed origin. The present government treats them in the same way as any other Rwandans.

### **3.4.4. Women**

#### *Sexual violence against women*

In Rwandan society today there is frequent (sexual) violence against women. Many widows – survivors of the genocide – moved to *imidugudu* as they could not resist the pressure to move, but also because they then felt safer. It was however a regular occurrence that authorities forced single women to have sex in order to be considered for the assistance intended for *imidugudu* residents.<sup>1</sup> A Law has been adopted by the Parliament making it possible to impose severer penalties on those guilty of sexual violence, but underage girls are undoubtedly still in a very vulnerable situation.

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<sup>1</sup> HRW, Uprooting the Rural Poor (June 2001), pp. 58-59.

During the genocide in 1994 women became victims of sexual violence on a large scale. It is estimated that in the process 50% of the women raped became infected with the HIV virus. These crimes were carried out by members of the Interahamwe, other civilians and members of the military in the Rwandan army of the time (*Forces Armées Rwandaises*). Administrative, political and military leaders as well as leaders of the militia ordered murders and sexual crimes or allowed them to happen as a means of achieving their political goals. Sexual violence took a variety of forms: individual rape, group rape, rape with sharp objects, sexual mutilation or sexual slavery. These crimes often followed a pattern in which women were raped after witnessing the torture and murder of members of their family and the destruction and looting of their homes.<sup>1</sup>

Since the sentencing by the ICTR in 1998 of Jean-Paul Akayesu, ex-mayor of Taba, to life imprisonment for participation in the genocide and rape, cases of rape can now be treated as a crime against humanity.<sup>2</sup> In Rwanda rape carried out during the genocide in 1994 is no longer regarded as a category 4 crime, but is now in category 1.<sup>3</sup>

Moreover, there were also women among the perpetrators of the genocide. In June 2001 the International Tribunal for Rwanda began the trial of the former Minister for Family and Women's Affairs, Pauline Nyiramasuhuko, for complicity in genocide and rape.<sup>4</sup>

A different problem arises with the 5 500 women in prison, about 600 of whom have young children. In most cases they have a separate section, but rape by warders or male prisoners remains a serious problem. It is women and children who suffer most both physically and psychologically from the overcrowding in the prisons.<sup>5</sup>

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<sup>1</sup> HRW, Shattered lives, Sexual violence during the Rwandan genocide and its aftermath (1996).

<sup>2</sup> ICG, Five years after the genocide in Rwanda (1999).

<sup>3</sup> For a description of the categories, see section 2.1.2 on history, p. 19.

<sup>4</sup> Reuters (12 June 2001).

<sup>5</sup> ICG, Five years after the genocide in Rwanda (1999).

### *Discrimination against women*

Women have to cope with discrimination. Traditionally it is women who do most of the work in agriculture and their role in the modern sector is limited. They have limited opportunities of receiving education or finding work outside the home.<sup>1</sup>

The head of most "poor households" is a woman or a child. All these women, whatever their social status (Tutsi, Hutu, displaced, returning), face great problems as a result of recent history and their traditionally inferior status. They have to get by with hardly any financial resources, rebuild their homes and bring up children. These women are particularly vulnerable to pressure to move to *imidugudu*. Many women were attracted by the move to *imidugudu* because of the security which would be provided by living in close proximity with others. For other women it was a blow to have to destroy the home that they had built up since the genocide, hand their land over to or share it with people returning or corrupt authorities or be forced to have sex in order to obtain the assistance already assigned to them.<sup>2</sup>

In July 1999, the Parliament agreed to amendments to the Civil Code which eliminated discrimination against women in matters of inheritance and ownership law, even though this only applied to married women. In practice, however, women still often encounter obstacles when claiming their rights as a result of social pressure and lack of education. To give the Law teeth, a national information campaign has been launched to make the population aware of women's inheritance rights. The federation of women's organisations, *Pro-Femmes*, is cooperating with various local NGOs in making local communities aware of their opportunities.<sup>3</sup>

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<sup>1</sup> DoS, Human Rights Report on Rwanda-1999 (2000).

<sup>2</sup> HRW, Uprooting the Rural Poor, (June 2001), pp. 57-60.

<sup>3</sup> UNECSOCCHR, Situation des Droits de l'Homme au Rwanda (21 March 2001), pp. 15, 18.



There are no legal restrictions preventing women from participating in political life, but women are under-represented in politics and the Government. The number of seats in Parliament has been increased by 4 – of which 2 are for women – to 74 seats. At the end of 2000, 18 of the 74 seats were occupied by women and there were three women ministers. Three *secteur* representatives are elected, one general, one for young people and one for women. All general candidates sit on the District Council, as do a third of the women's representatives (see also section 2.3 on political developments). The Ministry of Gender and Women's Affairs and Development actively promotes women's interests. The Parliamentary Forum for the Women of Rwanda has the aim of seeing that women's rights are included in the Constitution. To that end, it seeks to raise the gender-awareness of both men and women.<sup>1</sup>

### 3.4.5. Minors

Children and adolescents also took part in the genocide. Some of the perpetrators were no more than ten years old. Some were actually in command of others. As a result there is considerable pressure in Rwandan society to bring them to trial in the same way as adults. In Rwanda the legal age of majority is 21 (Civil Code), but for criminal law it is 18 (Penal Code).<sup>2</sup>

In December 2000 at the instigation of the UN Commission on Human Rights' Special Representative for Rwanda, the Ministry of Justice despatched all 400 child perpetrators of genocide (up to 14 years of age) for two months to re-education camps and then they were released. Prison directors have said that they will find out whether there are further young prisoners who could be covered by this arrangement.<sup>3</sup> NGOs will supervise the integration into society of the young people released.<sup>4</sup>

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<sup>1</sup> UN ECOSOC CHR, Situation des Droits de l'Homme au Rwanda (21 March 2001), p. 10.

<sup>2</sup> M. Imbleau and W.A. Schabas, Introduction au droit rwandais (1998), p. 129.

<sup>3</sup> Oral report by the UN Commission on Human Rights' Special Representative for Rwanda (29 March 2001), p. 3.

<sup>4</sup> EIU, Rwanda Country Profile February 2001, p. 12; and "*En attendant le verdict*" Jeune Afrique, No 2099 (3-9 April 2001), p. 89.

According to UNICEF, the dossiers of only 35% of the 3 500 cases of young people from 14 to 18 are complete. The UN Commission on Human Rights' Special Representative has urged that priority should be given to dealing with minors and that this should be done in the *gacaca* since such trials take less time than the regular ones.<sup>1</sup> Premier Makuza has agreed that this should indeed be the procedure.<sup>2</sup> Such minors will, if found guilty, receive sentences that are only half those given to adults for equivalent crimes.<sup>3</sup>

Young people can from the age of 17 enrol in the army. Officially there is no forcible recruitment, and therefore not of children either. In practice there is periodic press-ganging, particularly in the northwest. Children are particularly vulnerable to such procedures. Young people without clear official work are regularly seized and, according to reports, conscripted to fight in the DRC.<sup>4</sup> Street children are often seized and sent to re-education camps. In re-education camps children are given ideological<sup>5</sup> and physical training. Military training of the kind given to adults (see section 3.3.6 on arrest and detention – *Situation in prisons*) is not received by children, but they are "taught things which will make it easy for children to join the army later", according to a comment made by a child to Human Rights Watch.<sup>6</sup> There is, however, a difference between military training camps and re-education camps for street children. UNICEF keeps an eye on the camps for street children, which gives them a degree of protection. Some children return to their *commune* after a few months. Children also regularly escape from the camps.

Unaccompanied minors who have been rejected as asylum-seekers and have returned to Rwanda run the same risk of recruitment as other Rwandan young people if they cannot show that they are in work. There is therefore a chance of them being recruited and it is virtually impossible for them to avoid this.<sup>7</sup>

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<sup>1</sup> UN ECOSOC CHR, *Situation des Droits de l'Homme au Rwanda* (21 March 2001), p. 13.

<sup>2</sup> Premier Makuza in an interview with *Jeune Afrique*, No 2099 (3-9 April 2001), p. 62.

<sup>3</sup> "*En attendant le verdict*", *Jeune Afrique* No 2099 (3-9 April 2001), p. 89.

<sup>4</sup> AI, *DRC. Rwandese-controlled east* (2001), section 3.4. This is confirmed by observers.

<sup>5</sup> The children learn "standards and values" and not therefore a profession.

<sup>6</sup> HRW, *Press release on Rwanda* (1 February 2001).

<sup>7</sup> Except by bribery or fleeing abroad.

The ALIR in the past mainly recruited young people by raiding secondary schools in the Gisenyi and Ruhengeri provinces. If a young person tried to avoid forcible recruitment, he was in danger of being killed. The local authorities are trying to prevent the ALIR's recruitment devices by giving the schools police protection. Owing to insufficient police capacity, such protection is not adequate, but the fall in support for the rebels from the population in Northwest Rwanda has led to less press-ganging.

During the June 2001 fighting in Northwest Rwanda, a large number <sup>1</sup> of rebel minors were made prisoners of war. They were often undernourished, badly armed and said that they had been forcibly recruited by leaders of the militia. <sup>2</sup> They were allowed to spend four days with their families before being taken to re-education camps. <sup>3</sup>

There is no specific age at which young people in Rwanda are considered to be of legal capacity. In general, people start to live independently when they marry. People may also live independently in the towns if they have an income of their own. In the rural milieu, people in practice remain dependent on their families if they are not married.

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<sup>1</sup> Sources speak of from 50 to 600 children.

<sup>2</sup> Reuters (21 June 2001).

<sup>3</sup> Ibid (22 June 2001).

Children remain a vulnerable group in Rwandan society today, as shown by the number of orphans, children who are heads of family, street urchins and young delinquents. There are many street children in Kigali and e.g. Butare (university town in the south) for whom begging is the only means of survival. In Rwanda there are some 60.000 families which consist solely of children, accounting for around 300 000 children in all.<sup>1</sup> They live on the fringes of society, often without help, frequently abused and threatened. Sometimes war orphans are more or less taken care of by the social network where it still exists, e.g. through neighbours or distant family. Mostly they have to find their own way of surviving. The authorities offer no sort of care for minors. UNICEF in Rwanda supports a number of aid organisations concerned with care and support for child families. All these organisations together still reach less than a quarter of the total number of child families. The International Red Cross, with the support of the UNHCR, traces minors abroad and repatriates them. Unaccompanied minors who have returned to Rwanda receive specialised help. Lack of protection is the greatest danger facing child families. In many cases the children are thrown out of the parental home by neighbours or family. AIDS orphans are also thrown out of their homes as soon as their parents have died.<sup>2</sup> It is true the law stipulates that children can inherit the home, but in practice children cannot see that the law is enforced. Girls, who are the heads of three-quarters of child families, are often exploited by neighbours as labour. The authorities allow orphans free access to elementary school. But the child then has to show that he/she is an orphan, which is impossible in cases where a parent is missing. Sexual violence against children is widespread, particularly in isolated communities. In general the authorities take severe action in cases of sexual violence against children. Child labour is officially prohibited, but in practice tolerated.

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<sup>1</sup> This paragraph is based on: "Diane", in: *Kinderen eerst*, No 5 (October 1999), pp. 16, 17.

<sup>2</sup> UN ECOSOC CHR, Report on the situation of human rights in Rwanda (2000).

From 14 to 18 August 2000 a national Conference on children's rights was held in Kigali. The aim of the Conference was to report on the situation of children in Rwanda and establish an action plan for the period 2001-2010.<sup>1</sup>

For the last five years, Rwanda has produced no reports pursuant to the Convention on the Rights of the Child.

From the age of 12, a minor can apply for a passport. Until they are 16, minors can only travel with such a passport if accompanied by an adult; once 16, they can travel on their own. Children under 12 years of age are included in a parent's passport. It is possible to derogate from these rules.

#### **3.4.6. Opponents of the government**

Opponents of the government run a greater risk of problems with the authorities. That increased risk particularly affects people who are involved in journalism or political activities or are accused of maintaining links with the armed groups in the DRC, the former rulers (the Habyarimana regime) or political groups abroad, such as opposition parties or the king's army.

Problems with the authorities can take various forms. They may involve the constant presence of secret service officers near the house and either covert or overt telephone threats. People can also be tackled in the street about certain activities, with the message that it would be better if they ceased them. Since, in the past (above all in the five years following the genocide) people systematically disappeared and there are still occasional cases of people disappearing or being gunned down, the population live in great fear of the secret service. A telephone call can therefore be enough to intimidate people. Sometimes fights or accidents are fabricated, although there are of course also "ordinary" robberies with murder. People may be cornered by a car and beaten up by overgrown youths. Whether the secret service is behind this and, if so, at what level the orders are given to seize or intimidate someone is very difficult to establish.

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<sup>1</sup> UN ECOSOC CHR, Situation of human rights in Rwanda (2001), pp. 16-17.

In addition to the above forms of intimidation, there is still a risk of detention without fair trial in Rwanda. Unlawful imprisonment (i.e. without fair trial) is commonplace in Rwanda, according to the National Human Rights Commission in its report for 2000.

The number of people encountering problems with the authorities as a result of their opposition to the regime probably does not amount to more than a hundred cases.

### **3.4.7. Conscripts**

Rwanda has no compulsory military service. Young people can join the army from the age of 17. In general, the army recruits from LDF members. Joining the army is usually regarded by members of the LDFs as promotion, since it brings status and pay. In addition to LDF members, ex-FAR and *Interahamwe* members are also incorporated into the army. If, despite these means of recruitment, there is still a shortage of soldiers, periodic forcible recruitment campaigns are carried out, particularly in the north-west of the country. The north-west is the first choice for such recruitment, firstly, because of the need to keep the population under control, and secondly, in order to ensure that most young men join the RPA, so that there are fewer who can be recruited by the rebels. Children are particularly vulnerable to press-ganging. Young boys, including street children, are frequently seized and, according to reports, conscripted. In November 2001, in Ruhengeri and Gisenyi provinces all young men between 14 and 20 years of age were conscripted. In some villages, the youngsters were violently abducted by the LDFs and sent to training camps. Members of the military have no say in where they are stationed. The likelihood of soldiers being sent to the DRC is very great.

There is no alternative form of national service. Anyone who tries to escape forcible recruitment runs the risk, in occasional cases, of imprisonment or being sent to the front, but is always recruited anyway. Every *secteur* has a military recruiting officer, who often knows who has been or should be recruited. There are otherwise no administrative records kept of recruitment. In general, it is very difficult to escape recruitment, which is for some, moreover, the only possibility of earning any money.

For desertion from the army, there are heavy terms of imprisonment and, for desertion from army units in action in the DRC, the death penalty. The few soldiers who manage to escape flee abroad.

The members of the local defence forces are officially chosen from and by the population at *cellule* level. However, local authorities currently draw up lists of young men, with or without their consent or cooperation. In some cases, there are reports of open coercion. As in the case of the army, there is no alternative form of service for LDF purposes. Avoidance of service in the LDFs is theoretically possible, given that the law states it to be voluntary, but there is great pressure to obey, since refusal may be interpreted as a sign of support for the Hutu militias. The consequences of refusal can vary from region to region, but there are no known cases of serious consequences resulting from refusal to become an LDF member. The LDFs are in some cases deployed to back up soldiers in the conflict in the DRC. The numbers of LDF members involved are not known.

### **3.5. Conclusions**

The Constitution specifies that all citizens are equal before the law, without discrimination on grounds of race, colour, origin, ethnic group, clan, gender, opinion, religion or social status. Torture is forbidden.

Rwanda has signed and ratified the major international conventions on refugees and human rights. The National Human Rights Commission's annual report for 2000 came as a pleasant surprise to human rights organisations and other observers. The Commission is taking political risks and is apparently being given the leeway to do so.

Various local NGOs operate with very limited resources and in a politically precarious context. Since a critical report on the situation in prisons, it has been made virtually impossible for Liprodhor to function.

In June 2001 the mandate of the UN Special Representative for Human Rights in Rwanda was not extended.

Reports of violations within Rwanda still come mostly from the north-western Gisenyi and Ruhengeri provinces (in particular, arbitrary arrests, ill-treatment and murders), as the situation there is not stable. The risk of human rights violations stems chiefly from action by the authorities (LDFs, army and security services). Freedom of expression is still very restricted and ill-treatment and intimidation continue to be practised in prisons and *cachots*. Sexual violence also remains a very serious problem. The government takes insufficient action against human rights violations.

Political repression occurs sporadically. Opponents of the government, including persons maintaining links with the armed groups in the DRC, with the former rulers (the Habyarimana regime) or with political groups abroad (such as opposition parties or the king) and MDR members, are more likely to be the target of human rights violations than others.

Rwanda has no compulsory military service. In practice there are periodic recruitment drives, particularly in the north-west of the country. Children are a vulnerable group in this respect. Young boys, including street children, are frequently seized and, according to reports, conscripted. The LDFs are also regularly deployed for military tasks. There is no alternative form of national service. Anyone who tries to escape forcible recruitment runs the risk of imprisonment or being recruited anyway and sent to the front.

Rwanda remains a divided society, despite attempts by the government to launch a reconciliation process and protect vulnerable groups (e.g. political opponents of the government, genocide suspects and property-owning Hutus). The prison population of some 125 000 (110 000 genocide suspects and 15 000 "ordinary" suspects), insufficient respect for fundamental freedoms and the *imidugudu* policy continue to be major causes of concern.



## **4. Refugees and displaced persons**

### **4.1. Actual resettlement areas**

In June and July 2001 people were displaced by rebel incursions in the north-west. Over the reporting period, people also became displaced in Rwanda for various other reasons. In Bugesera and Gikongoro, famine and a generally hopeless situation at the beginning of 2001 produced displaced persons. Persons displaced by hunger move to areas (often where they also have relatives) where food is to be found and where the land can be cultivated. When the situation again allows, such people often return to the villages from which they have come. As well as famine, expulsions from homes, schools and other buildings, so that these can be returned to the rightful owners, result in further displaced persons. There are generally assumed to be a total of 300 000 displaced persons, although the true figure may be higher.

Resettlement of displaced persons and refugees who have returned is, in principle, left up to the people themselves. There are a number of specific aid programmes for displaced persons. For people returning from the diaspora, resettlement takes many different forms. The only common feature is that everyone, before final resettlement, must return to their district of origin in order to apply for new identity papers. People returning from the neighbouring countries are first accommodated in the transit camps in Gisenyi, Cyangugu and Kibungo. The number of people actually present in those camps varies considerably, from several thousand to a few hundred, depending on the flow of arrivals and departures. In the transit camps, food and water supplies, like the accommodation available, are minimal. The security situation in the camps depends on the security situation in the region.

Refugees and rebels returning from the DRC are moved on from the transit camps to camps run by the National Unity and Reconciliation Commission (solidarity camps for returning refugees).<sup>1</sup>

These are not located in the same places as the transit camps. After a period in the solidarity camps, people who have returned from the DRC must first go back to the village or town where they were born.

After their stay in a camp, rural families resettle of their own accord, while the elite returning from the surrounding countries usually settle in towns with the help of relatives or friends. In the case of the elite returning from the "distant diaspora", Europe and the United States, arrangements are generally made by the government and/or aid organisations in the case of skilled Rwandans who can play a role in capacity building.

As Rwanda is an overpopulated country, the scope for people to settle wherever they want is very limited. In some regions, they are officially resettled in new villages. Often, however, people work out a solution of their own, e.g. living with relatives. If someone wants to settle in the countryside in an area where there are *imidugudu*, that person has no other option than to go and live in one. It is, however, not the case that asylum seekers who have returned and want to live in the countryside are always forced to go and live in *imidugudu*. But it is still the authorities' intention to extend the *imidugudu* as part of the poverty-reduction policy currently being devised.

There are no indications that asylum seekers who have been rejected and return to Rwanda from a western country encounter problems with the authorities because of their asylum applications. Former members of the MRND are, however, specially monitored by the public prosecution service, as there is a serious possibility that they may be on the list of genocide suspects. If that is the case, the suspects will immediately been taken into custody.

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<sup>1</sup> The National Unity and Reconciliation Commission does not screen people for involvement in the genocide. This may in future become the task of the Ministry of Justice.

## 4.2. Migration flows

Rwandan refugees are still returning from the surrounding countries. Of the 2 000 refugees returning every month, around 80% come from the DRC.

In the reporting period there continued to be a flow of Hutu refugees (7 000)<sup>1</sup> departing for Tanzania from the south-eastern provinces of Rwanda. From February 2001 on, many of them moved on to Uganda.<sup>2</sup> The reason for this flight seems to be both economic and political. The drought in recent years as well as the arbitrary implementation of the *imidugudu* policy could be behind it. Since 1994 there has been an influx of Tutsis into those provinces, whereas few Tutsis lived in the south-eastern provinces before 1994. The Hutus have been feeling increasingly marginalised and tensions in the population have increased. It is likely that some of the refugees have (also) been prompted to flee by the setting up of the *gacaca* courts. Participation in the 1994 genocide was widespread in the eastern provinces and it is possible that there are still perpetrators at liberty in that region who fear being apprehended and convicted<sup>3</sup>.

Within the last year a number of members of the military and political figures applied for asylum in Uganda. Many politicians and members of the military who came to Rwanda with the RPA from Uganda still have houses and land in Uganda. One of the reasons for their flight may be that Museveni had turned against the Rwandan government and some of them were in danger within the Rwandan army, as they were no longer regarded as loyal. Probably, some have also left because they were disappointed with the RPF's policy, no longer had any economic prospects in Rwanda or had been guilty of misconduct.

The flow of refugees leaving Rwanda is far from consisting solely of Rwandans fleeing their own country. There are often refugees from another country, passing through Rwanda on their way elsewhere.

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<sup>1</sup> UNHCR, Global Report 2000 (2001), p. 112.

<sup>2</sup> "Seven thousand Rwandan refugees flee to Uganda", Kampala, The New Vision (11 July 2001).

<sup>3</sup> EIU, Rwanda Country Report, February 2001, p. 11.

### **4.3. International organisations' work**

In Rwanda, nearly all UN agencies are represented: UNDP, OCHA, UNHCR, WFP, UNICEF, UNFPA, UNIFEM, FAO, WHO, UNESCO, ICTR and the World Bank.

The UNHCR has considerably reduced its activities, as anticipated. The organisation has retained a very slight involvement in the three refugee camps and three transit camps since they were taken charge of by some NGOs.

The International Red Cross, with the support of the UNHCR, traces minors in camps in e.g. Zambia, Congo-Brazzaville and Malawi, repatriates them and finds them accommodation with relatives. Unaccompanied minors who have returned from the DRC are looked after by religious and other charitable institutions, until their families have been found. Such institutions receive aid in the form of food and other items such as soap <sup>1</sup>.

### **4.4. Other EU countries' policy**

The main countries receiving Rwandan asylum seekers in Europe are the United Kingdom, Belgium and France.

The United Kingdom received 630 asylum applications from Rwandans between 1 July 2000 and 30 June 2001. It does not return rejected asylum seekers to Rwanda, in view of the continuing insecurity there.

In Belgium, 747 Rwandans applied for asylum in the reporting period. Belgian asylum law does not provide for any residence permit based on category protection. Certain categories of asylum seekers are, however, designated as running a greater risk of persecution. These are Hutus (particularly intellectuals), Tutsi survivors of the genocide (looked down on by the "old" Tutsi refugees, who see themselves as the liberators of Rwanda) and political opponents (in the broadest sense) of the present government. People from these groups are more likely to be granted refugee status.

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<sup>1</sup> UNHCR, Global Report 2000, p. 64.

Rwandans whose applications have been rejected can be expelled. It is known that three young adults of Tutsi origin who returned to Rwanda at the beginning of 2001 were detained on arrival. No further information on this case is available.

France has not expelled any rejected Rwandan asylum seekers in the last two years. This is because it is technically impossible to expel asylum seekers, since the Rwandan authorities do not cooperate in providing travel documents.

#### **4.5. Conclusions**

The security situation for refugees from other countries in Rwanda is good. Displaced persons, however, do run security risks and are less protected against human rights violations. The resettlement of displaced persons is often delayed and deferred for political reasons. If they are resettled, this is often in *imidugudu* in the north-west, where the security situation is unstable.

Asylum seekers who have returned must first go back to their district of origin in order to apply for new papers. Then they can settle freely in Rwanda. There are no indications that rejected asylum seekers who return to Rwanda from a western country encounter problems with the authorities because of their asylum applications. Former members of the MRND are, however, specially monitored by the public prosecution services, as there is a serious possibility that they may be on the list of genocide suspects.

In the reporting period there continued to be a small flow of Hutu refugees leaving the south-eastern provinces of Rwanda for Tanzania and moving on to Uganda. The reason for this flight seems to be both economic and political. Within the last year a number of members of the military and political figures applied for asylum in Uganda. The flow of refugees from Rwanda is far from consisting solely of Rwandans fleeing their own country. There are often refugees from another country, passing through Rwanda on their way elsewhere.

In Rwanda nearly all UN agencies are represented. The UNHCR has retained a very slight involvement in the refugee and transit camps since they were taken charge of by some NGOs.

The main countries receiving Rwandan asylum seekers in Europe are the United Kingdom, France and Belgium. The United Kingdom does not return rejected asylum seekers to Rwanda, in view of the continuing insecurity there. For technical reasons, France has not expelled any rejected Rwandan asylum seekers in the last two years. In Belgium, certain categories of asylum seekers are designated as more likely to be granted refugee status. Rwandans whose applications have been rejected can be expelled. It is known that three young adults of Tutsi origin who returned to Rwanda at the beginning of 2001 were detained on arrival. No further information on this case is available.

## 5. Summing up

Politically, there have been a number of positive developments in Rwanda in the reporting period. In March 2001, for example, elections were held for the first time at *secteur* and district level. Moreover, progress has been made with preparations for the *gacaca* courts, which should considerably speed up the bringing to trial of the 110 000 genocide suspects still being held on remand. It is encouraging to see the way the National Human Rights Commission is functioning and has earned the respect of its critics with its last annual report.

There are also grounds for concern. A ban on political activities by all parties remains in force. The government claims that the ban is necessary in order to prevent such activities from rekindling the tensions which have arisen from the genocide. The ban was agreed on by the forum of political parties shortly after the genocide and applied only to the transition period, which was to last until 1999. That transition period has, however, in the meantime been extended by the government until 2003.

Tensions arising from shortage of land – one of the reasons for the genocide – are still a problem that does not seem to be resolved even by the *imidugudu* policy. Another cause of concern is doubt as to whether a fair trial will be guaranteed in the *gacaca* courts, coming into operation at the beginning of 2002.

There is also concern about security in Rwanda. The situation there is still by no means permanently stabilised. The peace process in the DRC is under way, with the result that the ex-FAR and *Interahamwe* forces are being pushed back towards Burundi and Rwanda. The first, badly trained and armed troops were already carrying out attacks in north-western Rwanda in June and July 2001. Those attacks were successfully crushed, but there remains a threat from better armed and trained rebel groups still in the DRC. In areas other than north-western Rwanda, the security situation is satisfactory, but under the same threat from the DRC. This applies particularly to south-western Rwanda.

With regard to human rights, as has already been indicated, the National Human Rights Commission is functioning better. Nevertheless, freedom of expression and freedom of association and assembly are restricted. Frequent resort to self-censorship makes it difficult to determine what the consequences of open criticism of the Government are, but imprisonment for terms of from a few months to more than a year is possible. The situation in the prisons and *cachots* remains bad, although attempts have been made to transfer as many people as possible from *cachots* to prisons, where the situation is somewhat better. In prisons and *cachots* and on arrest, ill-treatment and intimidation are practised. Disappearances and extra-judicial executions still occur, but in very small numbers.

Groups running a greater risk of human rights violations include opponents of the government, particularly people who are involved in journalism or political activities or are accused of maintaining links with the armed groups in the DRC, with the former rulers (the Habyarimana regime) or with political groups abroad, such as opposition parties or the king.

There are still about 300 000 displaced persons in Rwanda. They often live under plastic sheeting or banana leaves in the *imidugudu*. Displaced persons are exposed to security risks, depending on the security situation in the region where they are. People returning to Rwanda are first accommodated in transit camps, but there are often delays in resettlement. The main host countries in the region are Tanzania and Uganda, to which a small flow of refugees continued over the last year.

The main three European countries of destination for Rwandan asylum seekers are the United Kingdom, France and Belgium. The United Kingdom does not return rejected Rwandan asylum seekers, in view of the continuing insecurity in Rwanda. For technical reasons, France has not expelled any rejected Rwandan asylum-seekers in the last two years. Belgium does not provide any category protection, but has designated certain categories of asylum seekers as running a greater risk of persecution. Asylum seekers who have been rejected are returned.



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**POLITICAL PARTIES**

Political parties represented in parliament (in 2000):

| <i>acronym</i> | <i>name</i>  | <i>seats</i> |
|----------------|--|--------------|
| FPR            | <i>Front Patriotique Rwandais</i> [Rwandan Patriotic Front]  | 13           |
| MDR            | <i>Mouvement Démocratique Républicain</i> [Republican Democratic Movement]   | 13           |
| PSD            | <i>Parti Social-Démocrate</i> [Social Democratic Party]  | 13           |
| PL             | <i>Parti Libéral</i> [Liberal Party]   | 13           |
| PDC            | <i>Parti Démocrate Centraliste</i> [Centralist Democratic Party]<br>(C previously stood for <i>Chrétien</i> [Christian]) | 6            |
| PDI            | <i>Parti pour la Démocratie Islamique</i> [Islamic Democracy Party]  | 2            |
| PSR            | <i>Parti Socialiste Rwandais</i> [Rwandan Socialist Party]   | 1            |
| UDPR           | <i>Union Démocratique du Peuple Rwandais</i> [Rwandan People's Democratic Union]   | 3            |
| SOF            | Women  | 2            |
| CNJ            | Young people   | 2            |
| AN             | <i>Armée Nationale</i> [national army]   | 6            |
| Total          |  | 74           |

(Although not a political party, the national army (*Armée Nationale*) is represented in parliament. The women's and youth representatives are also unaligned with any particular political party.)

No real description of the social groups or shades of opinion represented by each party can be given. Members of parliament are unelected and there are no party programmes. National elections based on party politics are not expected to be held before 2003.

Some idea can be gained from the political parties' past:

- parties were established in the colonial era, from 1950 onwards, as part of limited democratic reforms, one being the *Mouvement Démocratique Républicain-PARMEHUTU* [Republican Democratic Movement-Hutu People's Emancipation Party] (MDR-P), ethnically based (pro-Hutu) and opposed to colonial rule. In 1969 it was the only party still in existence in Rwanda;
- in 1976 President Habyarimana, having come to power in a military coup in 1973, banned the MDR-P and set up the *Mouvement Révolutionnaire National pour le Développement* [National Revolutionary Development Movement] (MRND), as the sole political party to unite all Rwandans from then on;
- in the early 1990s, under the influence of the war with the RPF and under pressure from the international community, further parties were allowed to be set up, including:
  - a revived MDR, aligned with ex-President Kayibanda;
  - the PSD, founded by a group of Hutu intellectuals from southern Rwanda;
  - the PL, founded by Tutsi intellectuals and directed against the regime in power in 1990;
  - the *Coalition pour la Défense de le République* [Republican Defence Coalition] (CDR), an extremist anti-Tutsi party emerging from the MRND in response to perceived isolation brought about by the multi-party system;
- following the genocide, a forum of political parties was established, in which it was agreed that no political activities could be engaged in over a transitional period (since 1999 extended until 2003);
- since 1994, erstwhile "Hutu parties", such as the MDR and the PSD, have become more akin to "Tutsi parties", while the MRND and the CDR have gone out of existence;
- in May 2001 ex-President Bizimungu attempted to set up a political party, called the PRD-Ubuyanja, but was prohibited from doing so, by virtue of the agreement reached by the forum of political parties, until such time as a new constitution has been prepared.

**ADMINISTRATIVE STRUCTURE OF RWANDA**

Administratively, Rwanda is divided into four sub-national levels, viz. (in ascending order): *cellules*, *secteurs*, districts and provinces.

A *cellule* [cell, or basic unit] is the lowest administrative level, comprising about 50 families. All of a *cellule*'s inhabitants aged over eighteen form a *cellule* council. An executive council was elected from among them in March 1999, its main role being to mediate in minor disputes and pass on information to and from higher administrative levels.

A *secteur* [sector] consists, on average, of five *cellules* and is headed by a *secteur* executive council, indirectly elected in March 1999, with responsibility for local government and minor public works.

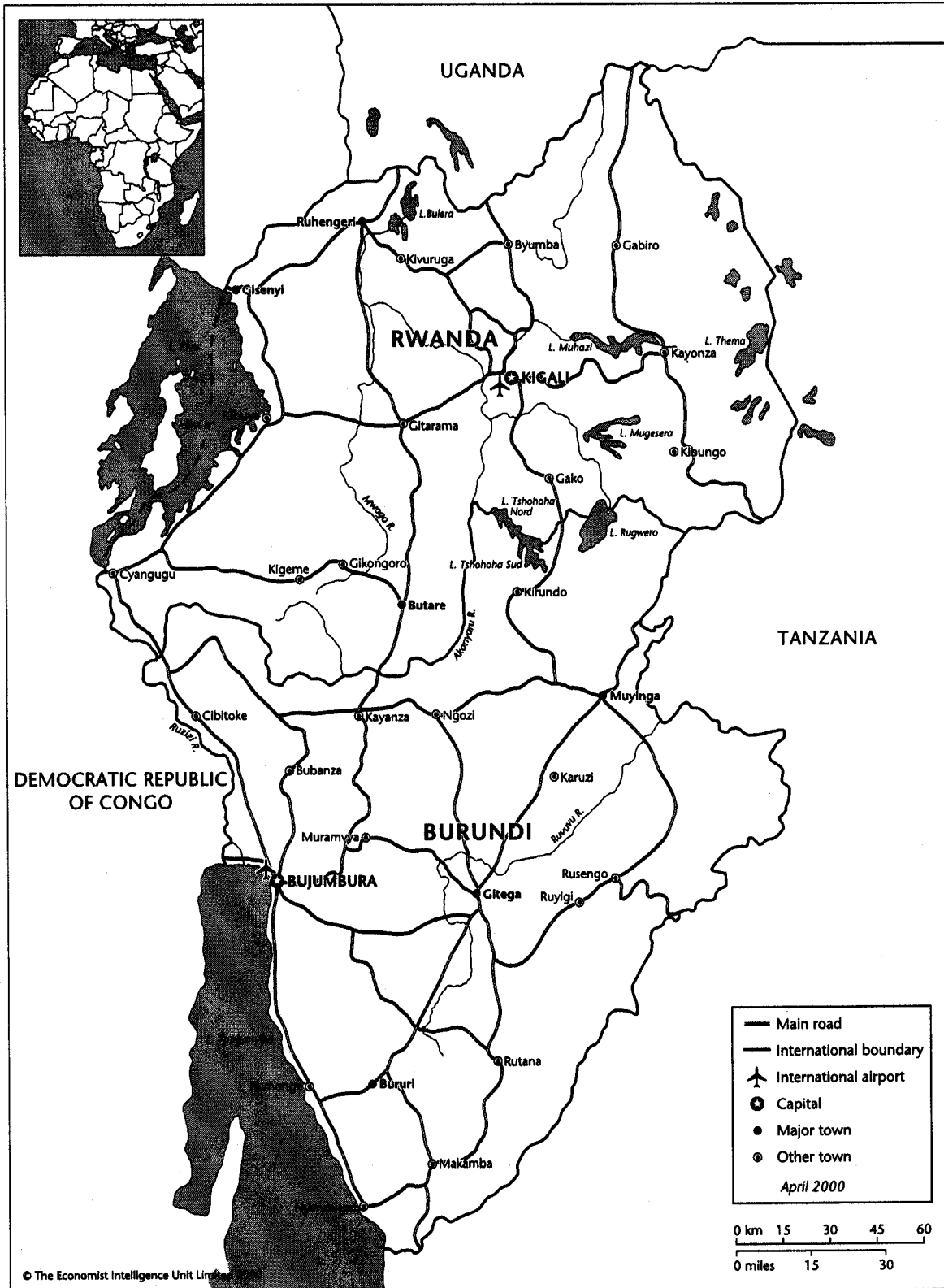
A new administrative structure was introduced in December 2000, with the number of districts (previously *communes* [municipalities]) reduced from 154 to 106, each with between 50 000 and 75 000 inhabitants<sup>1</sup>. A district is headed by a *comité exécutif* [executive committee], chaired by a mayor. The mayor used to be a government appointee, but since the elections held in March 2001 has been elected (see also section 2.3 on political developments). A district enjoys some measure of administrative and financial autonomy.

A province (previously *préfecture* [prefecture]) is headed by a government-appointed prefect. Provincial leaders are to be elected in future, but no date has yet been set for elections, although they are to be held before the national elections due in 2003. A province bears responsibility, in particular, for coordination and supervision.

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<sup>1</sup> UN ECOSOC CHR, Situation of human rights in Rwanda (Geneva, 21 March 2001), p. 9.

MAP OF RWANDA





## HUTUS AND TUTSIS

### **The meanings of "Hutu" and "Tutsi"**

The meanings of ethnic terms evolve over time although their authenticity derives from their appeal to unchanging tradition and history. Rwandans are divided over whether the origins of the terms "Hutu" and "Tutsi" lie in class or ethnicity. This division has deeply infused the politics of the past 40 years, and attempts to settle the matter rarely remain impartial for long.

One meaning of Hutu and Tutsi is "client/servant" and "patron/master", enabling someone to be a Hutu to one person, and a Tutsi to another. Thus during the days of the Rwandan monarchy everyone was a Hutu in relation to the king. However, other meanings refer to parentage and lineage.

Colonial rule shaped the meanings of Hutu and Tutsi, partly because of the speculative and inaccurate theories held by colonists and missionaries, who believed that Tutsis were Hamitic and from Ethiopia, and therefore somehow "sub-Aryan", rather than Bantu, like Hutus. The argument continued that, as sub-Aryans, Tutsis were racially superior to Hutus, in part because they must once have been Christian. In order to prove the ethnic distinctiveness of Tutsis, Hutus and Twa, physical differences were perpetually invoked by the colonial authorities, and the point was soon reached where those who were the tallest, had the thinnest noses and longest fingers became cast as Tutsi archetypes, with those who were the stockiest, had the widest noses and shortest fingers cast as their Hutu counterparts. The same physical criteria were used during the 1994 genocide to identify targets for slaughter.

The changing economy, including enforced coffee cultivation, transformed Rwandan social relations. Patron-client relations previously based on cattle were fundamentally altered once patrons acquired coffee plantations and clients became wage-labourers. To the wage-labourers, Tutsi came to imply "boss", while owners increasingly equated Hutus with "labourers". In the charged atmosphere just before independence, these easily became "exploiter" and "the mob".

The terms Hutu and Tutsi have assumed new meanings through the atrocities committed in Rwanda and Burundi since independence. Being a Rwandan Tutsi today is to belong to the community persecuted since 1959 and decimated in the 1994 genocide. To be a Rwandan Hutu is to belong to the ethnic group massacred in Burundi in 1972, 1988, 1990 and 1991, in northern Rwanda in 1990-94, and in eastern Zaire from late 1996 to mid-1997. As a result, the terms imply and signify more polarisation than ever, making reconciliation extremely difficult.