

Joint NGO Submission: UPR on Rwanda 23th Session 2015

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1. International Human Rights standards in Rwanda

Rwanda has adopted the Universal Declaration of Human Rights and is a member of the UN since 1962. They have ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, yet they did not sign the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (New York, 25 May 2000) nor ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York, 10 December 1984). By signing the Human Rights Declaration as well as the African Charter on Human and Peoples' Rights, Rwanda has made international commitments to adhere to the standards laid down in these universal human rights documents.

Since 1994, Rwanda has made tremendous progress in developing its economy, rebuilding its infrastructure and delivering public services, particularly in the education and health sectors. Nevertheless, the media remains tightly controlled, freedom of expression is restricted and political and civil rights are often curtailed. Within the last years political opponents have been hindered to participate in the political process;

some of them have even been arrested. Many civilians as well as national and international NGO staff members have been intimidated, controlled, arrested or were expelled from the country. Without judging on the political programs and intentions of opponent parties and individuals, OENZ is worried about government and other state institutions handling and politics of opponents and dissidents.

The juridical system is partial and it was noted that it disadvantages opponents of the ruling party RPF (Rwandan Patriotic Front) while the laws against divisionism and genocide denial are often used as tools of legal repression. Land and housing reforms sound in theory very ambitious but are in practice perceived as not thoughtfully applied partly leaving peasants homeless or in worse housing conditions than before. The right to adequate food is recently endangered by government policies that favor the cultivation of export-oriented cash-crops. As the Gini-Coefficient of 50,8¹ indicates, the Rwandan society is despite the state efforts unequal with the tendency of rising inequality.

2. The Right to Housing in the Context of Urban Reconstruction

The population of the Rwandan capital Kigali is growing at a rate of approximately 4%² per year and still a large share of the inhabitants are living in informal settlements with deficient infrastructure. In 2012, 81% of the urban population in Rwanda had access to improved water sources³ and 61% had access to improved sanitation.⁴ The Report of the Special Rapporteur on adequate housing [...]⁵ found that government programs such as *'Imidugudu'* – villagization and the *'Bye Bye Nyakatsi'* program in early 2011 were prescriptive and hastily implemented which left people without a chance of participation and own choice. Furthermore, it is reported that even force was applied to enforce the programs' implementation that did not lead to the foreseen fulfillment of the right to adequate housing.⁶

OENZ is afraid that the Rwandan government, in its effort to strengthen the capital's role as a Central and East African regional center for services and business, may promote rapid urbanization and commercial development rather than adequate housing for the population. In order to realize the 'Kigali Master Plan', expropriation of

¹ World Bank, <http://data.worldbank.org/indicator/SI.POV.GINI> , last access : 10.03.2015.

² BTC 'Massive population growth in Kigali asks for efficient urban health and environment services', 11.06.2013 : <http://www.btcctb.org/en/casestudy/massive-population-growth-kigali-asks-efficient-urban-health-and-environment-services> , last access : 10.03.2015.

³ World Bank, Improved water source, urban, Rwanda : <http://data.worldbank.org/indicator/SH.H2O.SAFE.UR.ZS/countries> , last access : 10.03.2015.

⁴ World Bank, Improved sanitation facilities, urban, Rwanda : <http://data.worldbank.org/indicator/SH.STA.ACSN.UR/countries> , last access : 10.03.2015.

⁵ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, 2013. A/HRC/22/46/Add.2 .

⁶ Ibid. p. 7-9.

housing and land of low-income city dwellers happens without the necessary compensation nor the relocation to settlements with better standard.⁷

It is worrying that by law (Organic Land Law 2005, Expropriation Law 2007) and by the 'Procedures Manual for Expropriation in the Public Interest (2010)', profit making ventures as well as private activities can under certain circumstances be considered as of public interest.⁸ OENZ views this as a clear sign that the government places economic success higher than the right to adequate housing and ownership of its citizens.

Kigali is a highly neat and orderly modern city offering a good standard of living. Nevertheless, OENZ is afraid that a lot of this impression is achieved by expelling those parts of the population with low income from the city as well as street children, street vendors and other vulnerable parts of society that are in need of social inclusion rather than expulsion.

3. The Right to Food and Landownership

The Rwandan economy relies on agriculture, as 73% of the population worked in this sector in 2013, yet with a decreasing tendency.⁹ What is alarming though is the very small share of arable land an individual holds on average: 0.10 hectares in 2012, with a decreasing tendency.¹⁰

Rwanda's population growth rate is currently at approx. 2.63 % per year.¹¹

In 2012, 21% of all households were considered to be food insecure. Also seasonal changes in food security do occur. Regional and social disparities disadvantage (remote) rural households, women, elderly and children, especially in western provinces. Rates of chronic malnutrition of children under five and resulting stunting remain with a prevalence of approx. 43% very high and are one of the highest rates in the region. Food insecurity and malnutrition are not mainly caused by food (in)availability but rather by (acute/seasonal) difficulties to access food.¹²

Land distribution in Rwanda is highly unequal. Ownership of land is limited to 25 ha, but the leasing of land is unlimited. Only few data is available on large-scale land

⁷ UN Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik , A/HRC/22/46/Add.2. p. 12.

⁸ Tom Goodfellow, 2014 : 'Rwanda's political settlement and the urban transition: expropriation, Construction and taxation in Kigali', in: Journal of Eastern African Studies, Vol. 8, No. 2, p.317.

⁹ World Bank, Rural Population: <http://data.worldbank.org/indicator/SP.RUR.TOTL.ZS/countries> , last access : 09.03.2015.

¹⁰ World Bank, Arable Land (hectares per person):

<http://data.worldbank.org/indicator/AG.LND.ARBL.HA.PC/countries> , last access: 09.03.2015.

¹¹ CIA World Factbook, Rwanda: <http://www.cia.gov/library/publications/the-world-factbook/geos/rw.html> , last access : 09.03.2015.

¹² MIANGRI & WFP: Comprehensive Food Security and Vulnerability Analysis and Nutrition Survey, Rwanda 2012, p.2-10: <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp255690.pdf> , last access: 09.03.2015.

ownership, but according to common knowledge amongst scholars “land holdings of hundreds or even thousands of hectares exist. Many of these are held by government and military representatives, other members of the urban elite and foreign investors. [...] There seems to be a growing trend for the most productive lands (marshlands) to be leased to investors or producer associations”.¹³ Government support in agriculture is focusing on market oriented agricultural production and better-off peasants, not on small-scale farmers¹⁴ who are the neediest with regard to food security and poverty alleviation.

Although governmental as well as international programs aim to alleviate poverty, reduce malnutrition and to improve overall standards, OENZ fears that on the other hand, economic development strategies focused on enhancing market and export oriented agricultural production could further aggravate already existing food insecurity in some regions and periods of the agricultural year, as well as general land scarceness and rural poverty. They would thus increase conflicts over land and other agricultural resources, degradation of soil, and raise the number of landless peasants.

4. Civil and Political Rights in Rwanda

The tendency to limit democratic space has not declined since the presidential elections in August 2010 but has rather increased. Human Rights Watch states that “the political space is extremely limited and independent civil society and media remain weak”.¹⁵

Already before the elections in 2010, the right to peaceful assembly and association (Article 20 of the Universal Declaration of Human Rights) as well as the right to take part in the government of a country (Article 21) has been withheld from opposing individuals and opposition parties. Opponent parties like the *Parti Socialiste Imberakuri* (PS-Imberakuri), the *Forces Démocratiques Unifiées-Inkingi* (FDU-Inkingi) and the *Democratic Green Party* (DGP) continued to encounter trouble and massive hindrances to free political expression, work and participation in the government. Without judging on the political programs and intentions of opponent parties and individuals, OENZ is worried about government and other state institutions handling and politics of opponents and dissidents which it considers not being constructive for conflict management in Rwanda.

¹³ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, Dr. Thomas Breuer et al., 2011: The potential of sustainable liquid biofuel production in Rwanda - A study on the agricultural, technical and economic conditions and food security, p. 20f.

¹⁴ Manuel Milz, ‘The authoritarian face of the “Green Revolution”. Rwanda capitulates to agribusiness’, 08.08.2011: http://www.grain.org/bulletin_board/entries/4322-the-authoritarian-face-of-the-green-revolution-rwanda-capitulates-to-agribusiness, last access: 09.03.2015.

¹⁵ Human Rights Watch. 2015. World Report – Rwanda, p. 1.

Bernard Ntaganda, the founding president of the opposition party PS-Imberakuri, was arrested and jailed in June 2010 shortly before the elections for what officials called “endangering national security, divisionism, and attempting to organize demonstrations without authorization”.¹⁶ In February 2011, he was sentenced to four years in prison. He was released in 2014. PS-Imberakuri leader Alexis Bakunzibake who alleged that government agents kidnapped and tortured him in September 2012, returned to the country in 2013 and continued to serve as a leader of the unregistered faction of PS-Imberakuri.¹⁷

The Democratic Green Party registered officially on August 10, 2013, but was not able to participate in parliamentary elections, due to tight deadlines.¹⁸ As only acting opposition party, members of the DGP have ever since been targeted with intimidations. The organizing secretary of the DGP, Jean-Damascène Munyeshyaka, is missing since June 27, 2014.¹⁹ The Rwandan National Police has launched an investigation but did not deliver any results yet. The party’s vice-president, André Kagwa Rwisereka, has been murdered in July 2010, with nobody found guilty in the case yet.²⁰ The government denied any involvement.²¹

Victoire Ingabire, the president of the FDU-Inkingi, a coalition of opposition parties, returned to Rwanda from exile in the Netherlands in 2010, announcing her intention to run as candidate in the upcoming elections. After a public speech at the National Genocide Memorial, she was imprisoned on charges of threatening state security and belittling the 1994 genocide. In 2013, the court increased her sentence from eight to 15 years on charges of spreading rumors intended to incite people to revolt. Lately, it was announced that her health worsened due to decreasing detention conditions such as reduced light in her cell which aim at crushing her morally.²² Victoire Ingabire’s husband, Lin Muyizere, risks losing his Dutch passport and being extradited to Rwanda due to two unknown witnesses who accused him of having been involved in

¹⁶ ‘Rwanda: Opposition Leader’s Sentence Upheld’, 27.04.2012: <http://www.hrw.org/news/2012/04/27/rwanda-opposition-leader-s-sentence-upheld> , last access: 23.03.2015.

¹⁷ U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 2013: Country Reports on Human Rights Practices for 2013, p. 3. <http://www.state.gov/j/drl/rls/hrrpt/2013/af/220149.htm> , last access: 13.03.15.

¹⁸ HRW, C. Tertsakian ‘Dispatches: Rwanda’s Green Party registered at last – but what does it really mean?’, 12.08.2013: <http://www.hrw.org/news/2013/08/12/dispatches-rwandas-green-party-registered-last-what-does-it-really-mean> , last access: 10.03.2015.

¹⁹ ‘Rwandans mysteriously disappear’, 24.08.2014 : <http://www.theaustralian.com.au/news/latest-news/rwandans-mysteriously-disappear/story-fn3dxix6-1227034830774> , last access: 03.03.2015.

²⁰ Human Rights Watch. 2015. World Report – Rwanda, p. 2.

²¹ Stefanie Duckstein, ‘Increasing arrests and disappearances rattle Rwandans’, 28.08.2014: <http://www.dw.de/increasing-arrests-and-disappearances-rattle-rwandans/a-17886527> , last access: 03.03.2015.

²² ‘Rwanda: les conditions de détention de Victoire Ingabire dénoncées’, 17.01.2015: <http://www.rfi.fr/afrique/20150117-rwanda-partisans-opposante-victoire-ingabire-fdu-denoncent-conditions-detention> , last access: 03.03.2015.

the genocide.²³ Until the point of writing, it is not known if the Netherlands will pursue his extradition. Other members of FDU-Inkingi, namely Mr. Sylvain Sibomana, the FDU-Inkingi's Interim Secretary General and Mr. Dominique Shyirambere were sentenced to two years and five months respectively in prison in November 2013 for charges of organizing illegal protests while attending the appeal court hearings in the trial against the FDU-Inkingi's chairperson, Victoire Ingabire Umuhoya, on March 25, 2013, within the Kigali Supreme Court's premises and uttering defamation against Security Services.²⁴

Joël Mutabazi, a former body guard of President Kagame and 15 others, among them Joseph Nshimiyimana, an ex-RPF-soldier, are charged of eight crimes including terrorism, treason and conspiracy to murder, setting up an armed group, spreading rumors with the intention of inciting the public to rise up against the state, murder, crimes against the state and illegal possession of a firearm.²⁵ Both, Mutabazi and Nshimiyimana, were found guilty and sentenced to life imprisonment in October 2014.²⁶

Joël Mutabazi deserted from the army in 2011 and fled to Uganda where he was granted asylum. In 2012, he was almost shot and later illegally extradited from Uganda to be charged in Rwanda. Appearing in court, he pleaded not guilty and said that he will not participate in the trial as he was a refugee and illegally taken to Rwanda. Mutabazi is not directly linked to any opposition. At the time of writing, Joël Mutabazi's brother Jackson Kalemera, who had also been abducted from Uganda in 2012 and sentenced to four month in prison in Rwanda, was reported missing. It is feared he might be dead, murdered to raise pressure on his brother.²⁷

In addition, a number of high-ranking Rwandan militaries, formerly close to President Paul Kagame, were arrested in Rwanda in August 2014, charged with crimes against state security²⁸ and inciting a rebellion by "spreading rumors" and "tarnishing the image of the country and government". The arrested militaries are the Defense Force Colonel Tom Byabagamba and his brother-in-law and retired Brigadier-General,

²³ 'Rwanda uses the husband to break Ingabire', 03.10.2014: <http://www.jambonews.net/en/news/20141003-rwanda-uses-the-husband-to-break-ingabire/>, last access: 23.03.2015.

²⁴ Human Rights Watch. 2014. World Report: <http://www.hrw.org/world-report/2014/country-chapters/rwanda?page=1>, last access: 23.03.2015.

²⁵ 'Joel Mutabazi sentenced to life for treason', The East African, 04.10.2015: <http://www.theeastafrican.co.ke/news/Joel-Mutabazi-sentenced-to-life-for-treason/-/2558/2475244/-/ntxqfw/-/index.html>, last access: 04.03.2015.

²⁶ 'Ex-bodyguard jailed for trying to kill Rwandan President Kagame', Clément Uwiringiyimana, 03.10.2014: <http://www.reuters.com/article/2014/10/03/us-rwanda-trial-idUSKCN0HS1L620141003>, last access: 04.03.2015.

²⁷ Judi Rever, 'Brother of ex-guard to Kagame feared dead', 01.03.2015 : <http://www.digitaljournal.com/news/world/rwanda-wages-war-against-its-people-critics-allege/article/427217>, last access: 12.03.2015.

²⁸ 'Military Purges in Rwanda Expose Cracks in Kagame Regime', Filip Reyntjens, 24.09. 2014: <http://www.worldpoliticsreview.com/articles/14087/military-purges-in-rwanda-expose-cracks-in-kagame-regime>, last access: 04.03.2015.

Frank Rusagara. Other defendants in this trial include Rusagara's driver, Francois Kabayiza, and the retired captain, David Kabuye. Both, Byabagamba and Rusagara, have pleaded not guilty²⁹ to charges of inciting insurrection against the government. While David Kabuye was soon sentenced to six months in prison on charges of illegal possession of weapons, hearings on Byabagamba and Rusagara were not finished at time of writing. After his recent discharge, Kabuye published a report on "what happens in the prison" following a new court hearings on charges of "inciting insurrection and insulting senior government officials".³⁰ On September 20, 2014 the brother of Colonel Tom Byabagamba, Paul Manzi Byabagamba, his wife and son have been arrested without an official reason and are held in an unknown place.³¹

The pursuit of political opponents is not limited by the borders of the Rwandan state. In May 2011, the British intelligence service MI5 held evidence of threats and attempted assassination of political opponents in British exile, as among them the human rights activist René Mugenzi and Jonathan Musonera³², member of the Rwanda National Conference (RNC).

Threat is further posed on founding members of the RNC, a political movement in exile found in the US in 2010, led by exiled military officers of President Kagame's former inner circle. Three attempted assassinations have been carried out on the outspoken critic of President Kagame, General Kayumba Nyamwasa, former army chief, who is living in exile in South Africa, the last one dating from March 2014.³³ Three Rwandan diplomats were found to have been involved in the attack³⁴, revealing that the Rwandan Foreign Service is allegedly used to control Rwandans and public opinion about Rwanda abroad.

The constant threat on Rwandans in exile culminated in the murder of Patrick Karegeya, the former chef of intelligence service, on January 1, 2014 in Johannesburg, South Africa. The government denies any links to deaths of dissidents, but utters very

²⁹ 'Rwanda: Col. Byabagamba, Rusagara Trial Adjourned As Suspects Plead Not Guilty', Edwin Musoni, 28.01.2015: <http://allafrica.com/stories/201501280820.html> , last access: 04.03.2015.

³⁰ "Former Rwanda officer charged with sedition", AFP, 16.03.2015: <http://www.dailymail.co.uk/wires/afp/article-2997684/Former-Rwanda-officer-charged-sedition.html>, last access: 19.03.2015.

³¹ 'Rwanda: des disparitions sèment le doute sur de nouvelles arrestations', 23.09.2014: <http://www.rfi.fr/afrique/20140923-rwanda-disparitions-sement-le-doute-nouvelles-arrestations/> , last access: 13.03.2015.

³² 'René Mugenzi sur l'assassinat d'opposants rwandais: «La communauté internationale n'a rien fait»', 08.01.2014: <http://www.rfi.fr/afrique/20140108-rene-mugenzi-assassinats-opposants-rwanda-kagame-royaume-uni/> , <http://www.independent.co.uk/news/uk/crime/rwandan-assassin-sent-to-kill-dissidents-in-uk-2286712.html>, last access: 03.03.2015.

³³ Tristan McConnell, 'Rwanda denies it's been trying to kill people in S. Africa, but says that one guy had it coming', 13.03.2014 : <http://www.globalpost.com/dispatch/news/regions/africa/140313/rwanda-denies-killing-dissidents-south-africa-Nyamwasa-Karegaya> , last access: 04.03.2015.

³⁴ 'South Africa links Rwanda diplomats to attacks', 12.03.2014 : <http://www.bbc.com/news/world-africa-26546105> , last access: 04.03.2015.

clear warnings and palpable threats to everybody perceived as an enemy to the state security or traitor of the current Head of State.³⁵

A list of disappeared or murdered political dissidents is provided in the Human Rights Watch publication “Repression Across Borders”, dating from January 28, 2014³⁶. What becomes clear is that these crimes often happened in a context of impunity. Investigations have in most cases not found the culprits and often those who are presumed to be responsible are linked to the Rwandan government.

Another example of a most likely politically motivated murder is the case of Gustave Makonene, an anti-corruption activist working for Transparency International. He was found murdered near the border with the Democratic Republic of Congo (DRC) in July 2013. Investigations in this case have been very slowly. Only after international pressure on the Rwandan government, two police officers were sentenced to 20 years in prison in January 2015 as they confessed and co-operated with the authorities.³⁷ According to the prosecutors Makonene has been killed in order to prevent him revealing their involvement in illegal mineral smugglings across the border with the DRC. HRW also underlined that Gustave Makonene recently dealt with the involvement of the police in allegations of corruption.³⁸

Two leaders of the Human Rights organizations LDGL (League for the defense of human rights in the Great Lakes region), Joseph Sanane and Epimack Kwokwo, had been separately arrested at the Rwandan-Burundi border in August 2011. After a questioning both were released the same or the next day and no charges were brought against them. This action is perceived as to intimidate the at that time active and independent human rights organization LDGL which is working transnationally in the region of the Great Lakes.³⁹ By now LDGL has become very quiet in its work. Other human rights organizations have been weakened by the infiltration of pro-governmental employees, as it happened with the Rwandan League for the Promotion and Defence of Human Rights (LIPRODHOR) in 2013, when presumed pro-government members took control of the NGO’s board.⁴⁰

³⁵ ‘Rwanda’s President Paul Kagame warns traitors’, 13.01.2014: <http://www.bbc.com/news/world-africa-25713774> , last access: 04.03.2015.

³⁶ HRW: ‘Repression Across Borders – Attacks and Threats Against Rwandan Critics and Opponents Abroad’, 28.01.2014: http://www.hrw.org/sites/default/files/related_material/2014_Rwandansattackedabroad.pdf , last access: 04.03.2015.

³⁷ ‘Meurtre de Gustave Makonene au Rwanda: deux policiers condamnés’, 24.01.2015: <http://www.rfi.fr/afrique/20150124-proces-assassinat-gustave-makonene-rwanda-deux-policiers-condamnes-20-ans-prison/> , last access: 09.03.2015.

³⁸ Wenzel Michalski, ‘A Quiet Murder in Rwanda’, 20.07.2014: <http://www.hrw.org/news/2014/07/20/quiet-murder-rwanda> , last access : 09.03.2015.

³⁹ ‘Rwanda: Arrest of Epimack Kwokwo and Joseph Sanane’, 24.08.2011 : <http://archive-org.com/page/312881/2012-09-26/http://frontlinedefenders.org/node/15884> , last access: 09.03.2015.

⁴⁰ Human Rights Watch, World Report. 2014. ‘Events of 2013’, p. 156.

5. Access to Justice

To handle those cases awaiting their trials, the historical local or village courts called “Gacaca” have been taken as model for a new mechanism of transitional justice in dealing with the 1994 Rwandan genocide on Tutsi. These new Gacaca courts officially closed on 4th May 2012.⁴¹ In total, they handled about 1.9 million cases. While the government speaks of a success story, human rights organizations remain divided. Gacaca courts dealt with a high number of cases in a rather short time, thereby relieving the national justice system. They were also considered an important step towards national reconciliation. Nevertheless, the courts partly lacked professionalism and did not live up to international standards of justice.

For example, Gacacas did not offer a statutory right to legal defense. Furthermore, the judges were recognized members of the society but had a limited legal training, which made it unlikely that they could rightly deal with genocide cases. The government announced that they would try misjudgments again in the national framework but this has not happened, yet. Human Rights Watch - Report: Justice Compromised (31.05.2011) noted that they saw many cases where witnesses would not speak up in favor of a defendant as they feared to be socially excluded or punished on charges of genocide-denial or similar. A number of verdicts were overshadowed by mistrials, corruption and settlement of old scores.⁴² Lastly, war and other crimes committed by former soldiers of the Rwandan Patriotic Front (RFP) have been explicitly exempted from the prosecutions in Gacaca.⁴³

6. Reconciliation

The main responsibility for reconciliation efforts in Rwanda lies with the state run body ‘National Unity and Reconciliation Commission’ (NURC), established in 1999.⁴⁴ Programs like the ‘Ingando Reconciliation Camps’ are supposed to promote peace, patriotism, social unity and a good understanding of recent history. Not much evidence is available on what exactly takes place in these camps. Some sources perceive them as tool to impose the “revisited and officialised historical narrative [...]”. Though many regard it as the ‘true’ or ‘real’ history, this official historical narrative is more functional than objective. [...] The narrative has not been arrived through a continuous discussion and is not open to public critique or rejection”.⁴⁵ Key aspects of

⁴¹ <http://www.un.org/en/preventgenocide/rwanda/about/bgjustice.shtml> , last access: 25.02.2015.

⁴² ‘Rwanda: Mixed Legacy for Community-Based Genocide Courts’, 31.05.2011: <http://www.hrw.org/news/2011/05/31/rwanda-mixed-legacy-community-based-genocide-courts> , last access : 23.03.2015.

⁴³ ‘Rwanda ends Gacaca genocide tribunals’, 19.06.2012: <http://www.dw.de/rwanda-ends-gacaca-genocide-tribunals/a-16033827> , last access: 09.03.2015.

⁴⁴ UN Outreach Programme on the Rwanda Genocide, March 2014: <http://www.un.org/en/preventgenocide/rwanda/pdf/Backgrounder%20Justice%202014.pdf> , last access: 04.03.2015.

⁴⁵ Refugee Studies Centre, University of Oxford. Working Papers No. 80. Purdeková, Andrea. 2011: Rwanda’s Ingando camps - Liminality and the reproduction of power, p. 27.

Ingando were “unity-building, militarization and politicization” with the aim to (trans-) form “ideal citizens”.⁴⁶ The government’s praise of the Ingando-mecanism “purposefully conceals the reality that animosities still exist and even nourish in Rwandan society. Although there are Rwandans who agree that the seeds of reconciliation have indeed been planted and are bearing fruit, there are still others who speak of bitterness, a simmering, a country at times waiting to explode.”⁴⁷ But as such state programs (camps, workshops, school-curricula, etc.), are imposed to its citizens and held without transparency, they do not contribute to confidence building neither to democracy, reconciliation and peace-building.

7. Arbitrary Arrests, disappearances, torture and extrajudicial executions

Arbitrary arrests, extrajudicial killings and torture are not omnipresent in Rwanda but they do happen and security agents (police and other) usually remain unpunished for these crimes. In most cases, arbitrary arrests occur in connection with unwanted criticism against state authorities or after political actions of opposition parties, NGOs or the media.

According to Amnesty International the Rwandan Military Intelligence runs a parallel system of arrest and detention⁴⁸, with secret but nevertheless known centers for detention. AI reports 45 cases of unlawful detention and 18 cases of alleged torture by the military intelligence service in 2010 and 2011 and estimates the actual number to be higher.⁴⁹ AI further reports that the roles of the military and the police in arresting suspects is increasingly blurred since early 2010. The cooperation of the Rwandan Defense Force, the Rwandan National Police, the National Intelligence and Security Service and the Rwanda Correctional Service was formalized by establishing a Joint Operational Centre. This is a threat to the accountability and traceability of cases.⁵⁰

In July 2014, about 40 corpses have been found in Lake Rweru, which borders Rwanda and Burundi. Local fishermen, who have found the corpses, reported that they were floated into the lake from the Akagera River coming from Rwanda. Rwanda and Burundi governments both see the origin and responsibility for the corpses lying with the other state. The African Union took over investigations but no results were published by the time of writing.

⁴⁶ Ibid. p. 29, p.28.

⁴⁷ Mgabako, Chi. 2005: Ingando Solidarity Camps: Reconciliation and Political Indoctrination in Post-Genocide Rwanda, Harvard Human Rights Journal, Spring 2005, Vol. 18, p. 224.

⁴⁸ Amnesty International, 2012: Rwanda: Shrouded in Secrecy – Illegal Detention and Torture by Military Intelligence, p. 15.

⁴⁹ Ibid, p. 7.

⁵⁰ Ibid, p. 15.

According to a report of Human Rights Watch there have been an increased number of disappearances in March and April 2014. HRW documented at least 14 cases of forcibly disappeared or reportedly missing persons.⁵¹

On November 13, 2014 Emile Gafirita, former bodyguard of the President, disappeared in Nairobi, Kenya. He came forward as witness in the process led by Nathalie Poux and Marc Trévidic at the '*Tribunal de Grande Instance*' in Paris that investigates the shooting of president Habyarimana's plane on April 6, 1994.⁵² Until today, no news of his whereabouts has been reported.

8. Freedom of Expression, Opinion and Association

The laws against divisionism and genocide ideology are in some cases used to suppress and incriminate oppositional opinions or to detain and incarcerate political opponents and dissidents thereby creating a legal frame for repression.⁵³ Questioning the history of the RPF or mentioning murders and crimes the RPF has committed between 1991 and 2001⁵⁴, touches a narrative of RPF as safeguard against ethnic violence, which responds a profoundly rooted fear of constant threat of Tutsi which results from an experience of two to three generations who experienced the threat of extermination and eviction. In addition, these accusations are at the core of political rationale of those political opponents that are part or close of stakeholders who committed, supported or sympathized with the regime or even the genocide in 1994 as "legal defense of Hutu" against RPF what they perceive as Tutsi domination. Therefore, the Rwandan government and RPF consider and denounce mentioning of crimes allegedly or probably committed by RPF (elements) as revisionism and as (pretext for) denial of the genocide against Tutsi. They regard them as high treason and punish them by the law against divisionism.

This happened on October 1, 2014 when BBC2 broadcasted the controversial documentary: "Rwanda's Untold Story" dealing with the downing of the presidential airplane and the following genocide in 1994. The documentary caused a national scandal as well as international turmoil. The Rwandan government responded by accusing BBC2 of genocide denial. Consequently, the BBC's Kinyarwanda radio-program was suspended and an investigation launched by the Rwanda Utilities Regulatory Authority (RURA). The inquiry commission published their report in March 2015 and

⁵¹ 'Rwanda: Spate of Enforced Disappearances', 16.05.2014: <http://www.hrw.org/news/2014/05/16/rwanda-spate-enforced-disappearances>, last access: 13.03.2015.

⁵² Tristan McConnell, 'Rwanda's disappearing dissidents', 23.11.2014: <http://www.globalpost.com/dispatch/news/regions/africa/141123/rwanda-disappearing-dissidents-emile-garfirita-paul-kagame-hutu-tutsi-genocide>, last access : 12.03.2015.

⁵³ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 2014, A/HRC/26/29/Add.2.

⁵⁴ ONHCR, Mapping human rights violations 1993-2003: http://www.ohchr.org/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf, last access 13.03.2015.

accused BBC of having broken the law of genocide denial and thus recommended the government to ban BBC from broadcasting on Rwanda's airwaves, something that would further narrow the media landscape in Rwanda.

But freedom of media is also more generally limited in Rwanda. The Rwandan Penal Code (Article 234) punishes insults in any form of officials, police or the president; therefore journalists largely abstain from criticizing the government or reporting on police or military issues.⁵⁵

In 2015, Rwanda ranks place 161 out of 180 on the Reporters Without Borders' World Press Freedom Index.⁵⁶ Over the past twelve years, a sharp downward trend on the RWB-barometer can be observed.⁵⁷ President Paul Kagame himself is listed as a predator to Press Freedom by Reporters Without Borders.⁵⁸ Because of the increasing threats drastic self-censorship within human rights organizations and media is widespread in order to avoid any confrontation with the authorities.

The popular newspapers '*Umusesu*' and '*Umuvingizi*' have been banned for six months in April 2010 because of their partial critical reports. Journalist Jean Léonard Rugambage of the tabloid *Umuvingizi* has been shot on 24th June 2010 in Kigali after doing research on the attempted murder of Faustin Kayumba Nyamwasa. Two suspects, Didace Nduguyangu and police officer Antoine Karemera have been arrested shortly after the incident. Didace Nduguyangu confessed the murder, claiming he had been hired by Antoine Karemera to revenge his brother who had been killed in the genocide. In 2010 both have been sentenced to life in prison, a verdict that was appealed in 2011 and changed into 10 years of prison for Didace Nduguyangu and acquittal for Antoine Karemera. Investigators allegedly considered only the motive of personal revenge, not the possibility that Rwandan officials could have been involved in the case. Although the case is not met with impunity, the complete ignorance of a political motive gives the impression of a partial justice system.⁵⁹

Having publically claimed rising tensions before the elections in 2010 and published alleged cases of corruption among high members of the government, including Pres-

⁵⁵ Anton Harber, Committee to Protect Journalists, 'Legacy of Rwanda genocide includes media restrictions, self-censorship – Twenty years after massacres, Rwanda stable but its media restricted', 08.12.2014: <https://cpj.org/reports/NEWrwanda2014-english.pdf>, p.3, last access : 12.03.2015.

⁵⁶ Reporters Without Borders, World Press Freedom Index 2015: <http://index.rsf.org/#/> , last access: 04.03.2015.

⁵⁷ Reporters Without Borders, Rwanda: <http://index.rsf.org/#/index-details/RWA> , last access: 04.03.2015.

⁵⁸ Reporters Without Borders, Thoughts of Paul Kagame: <http://en.rsf.org/predator-paul-kagame,44530.html> , last access: 04.03.2015.

⁵⁹ 'Rugambage Murder Trial – One Defendant gets 10 years, the other acquitted', 21.09.2015: <http://en.rsf.org/rwanda-rugambage-murder-trial-one-21-09-2011,41036.html> , last access: 13.03.2015.

ident Kagame, in articles published in 'Umurabyo'⁶⁰, the two journalists Agnès Uwimana Nkusi and Saidath Mukakibibi were charged in June 2010. Agnès Uwimana Nkusi initially faced a sentence of 17 years on charges of inciting "civil disobedience", "prompting division" and "genocide denial". Due to health issues the Supreme Court reduced the sentence to four years in 2012 - three for "damaging state-security" and one for the "defamation of President Kagame". Agnès Uwimana Nkusi has already been imprisoned for one year in 2007 for publishing an anonymous letter that was critical of the government in Umurabyo. Saidath Mukakibibi, who was detained with her, was originally sentenced to seven years on the same grounds. On appeal, her sentence was reduced to three years on a charge of "attacking state security".⁶¹ Reporters Without Borders underlined that they were relieved about the freeing of these journalists but also emphasized that those detentions should have never happened as they were arbitrary and unjust.⁶²

The musician Kizito Mihigo was said to be close to President Kagame and therefore his arrest in April 2014 came as a surprise to many. According to the authorities, he and his co-defendants - Cassien Ntamuhanga, programme director of the Christian radio station 'Amazing Grace', ex-soldier Jean Paul Dukuzumuremyi and Agnès Niyibizi, a student and former receptionist - are accused of forming a criminal gang, aiding the formation of a criminal gang, conspiracy against the established government or president of the republic, complicity in a terrorist act, murder and conspiracy to commit murder. Security forces found explosive substance in his house. Mihigo was charged to have mobilized the youth to join the RNC. Kizito confessed his guilt. But many people doubt the fairness of the trial as the charges against Mihigo coincidences with the release of a controversial song dealing with "lives brutally taken but not qualified as genocide"⁶³ which clearly challenges the Kagame government by violation the taboo to mention Hutu victims in 1994.

The journalist Cassien Ntamuhanga claimed to have been kidnapped by the police, psychologically tortured, held incommunicado for several days and forced to confess.⁶⁴ The three defendants Mihigo, Ntamuhanga and Dukuzumuremyi were con-

⁶⁰ 'Ruanda-Agnès Uwimana Nkusi und Saidati Mukakibibi', May 2013: <http://www.amnesty.de/briefe-gegen-das-vergessen/2013/5/ruanda-agnes-uwimana-nkusi-und-saidati-mukakibibi> , last access : 23.03.2015.

⁶¹ Freedom Now, Past Campaigns, 'Agnès Uwimana Nkusi': <http://www.freedom-now.org/campaign/agnes-uwimana-nkusi/> , last access: 04.03.2015.

⁶² Reporters Without Borders, 'Newspaper Reporter Freed on Completing Three-Year Jail Term, 26.06.2013: <http://en.rsf.org/rwanda-newspaper-reporter-freed-on-25-06-2013,44848.html> , last access: 04.03.2015.

⁶³ Youtube, Igisobanuro Cy'urupfu by Kizito Mihigo (The meaning of death: English subtitles), 15.04.2015: <https://www.youtube.com/watch?v=S2n8hTQI2II> , last access: 04.03.2015.

⁶⁴ RFI, 'Procès de Kizito Mihigo: comparution de Cassien Ntamuhanga', 15.11.2014 : <http://www.rfi.fr/afrique/20141115-justice-rwanda-cassien-ntamuhanga-proces-kizito-mihigo/> , last access: 04.03.2015.

victed to 10, 30 and 25 years in prison respectively. Agnès Niyibizi has been acquitted.⁶⁵

A 'Joint Action Forum for Development' has been established in 2013, to which international NGOs automatically have to become member. They have to report regularly on their activities and hand on reports on their budget and annual action plans, which have to be approved before being implemented.⁶⁶

National and international NGOs have to undergo every two years a reaccreditation-process with the Rwandan Governance Board that is bureaucratically burdensome, time- and means-consuming. Eventually they fall victim to a concerted governmental "discretization-campaign" as happened with Human Rights Watch in 2014 after publishing a report on recently disappeared Rwandan citizens.

10. International Humanitarian Law and Extraterritorial Obligations

Since 2001, Rwanda has achieved considerable political, economic and military influence in the eastern provinces of the Democratic Republic of Congo (DRC).

Ex-CNDP (National Congress for the Defense of the People) Commander Bosco Ntaganda and his fighters are considered as Rwandan proxies in Eastern Congo and have received support from Rwanda government and military. They were integrated into the Congolese army as part of a peace agreement. In April 2012, Ntaganda led a revolt and became one of the main leaders of the new rebel group M23. Like other rebellions in DRC, M23 fighters have been responsible for widespread war crimes including summary executions, rapes and forced recruitment of children. In March 2013, following fights between two M23 factions, Ntaganda turned himself in the United States Embassy in Rwanda and was flown to The Hague where he awaits trial before the International Criminal Court.⁶⁷ The annex of the UN Experts Group for the DR Congo Report 2012 reports that the M23 has been supported by the government

⁶⁵ 'Rwanda: dix ans de prison pour Kizito Mihigo, jugé coupable de conspiration contre le gouvernement', 27.02.2015: <http://www.jeuneafrique.com/Article/ARTJAWEB20150227184324/justice-paul-kagam-patrick-karegeya-kizito-mihigo-justice-rwanda-dix-ans-de-prison-pour-kizito-mihigo-jug-coupable-de-conspiration-contre-le-gouvernement.html> , last access : 04.03.2015.

⁶⁶ EurAc: Memorandum EU-Legislature 2014-2019 – For a stronger commitment to peace and democracy in the Great Lakes Region. P.20. <http://www.eurac-network.org/accueil.php?lg=en&pg=advocacy&spg=2014-11-06> , last access : 12.03.2015.

⁶⁷ Human rights Watch, 'Who is Bosco Ntaganda?': <http://www.hrw.org/topic/international-justice/bosco-ntaganda> , last access: 10.03.2015.

of Rwanda with weapons, logistics and even troops.⁶⁸ MONUSCO demobilized Rwandan child soldiers who stated to have been recruited by Rwandan officials.⁶⁹

⁶⁸ Addendum to Interim report of the Group of Experts on the DRC

http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/348/Add.1, last access: 19.03.2015.

⁶⁹ U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 2013: Country Reports on Human Rights Practices for 2013, p. 2.