

Joint NGO Submission: UPR on Rwanda 11th Session 2011

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1. International Human Rights standards in Rwanda

Rwanda has adopted the Universal Declaration of Human Rights 1948 and is member state of the UN since 1962. It has ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, yet it did not sign the protocols on the rights of the child and against torture.

By signing the Human Rights Declaration Rwanda has made binding international commitments to adhere to the standards laid down in these universal human rights documents.

In the phase since the last presidential elections in 2005, democracy and human rights have not been stabilized in Rwanda. While the country was able to achieve considerable development on the economic sector and increase its international trade connections, the democratic space for civil society, media and opposition has even declined. The upcoming presidential elections 2010 are overshadowed by the strict intervention of the national authorities against any attempts to criticize or even challenge the ruling party RPF.

Human rights have been violated in a variety of occasions: House owners and farmers have been displaced from their land. Agricultural reforms have increased the income of a minority of farmers and left thousands of families in poverty. Media, NGOs and parties have been hindered to enjoy their democratic rights. The attempts to overcome the violent history of Rwanda by the means of local Gacaca courts have

in many cases lead to even more injustice. With arbitrary arrests and the generous application of the law against “divisionism” the government has managed to silence oppositional voices. And even in the neighboring countries like the Democratic Republic of Congo, Rwanda has been sharing the responsibility for the thousands of cases of severe human rights violations of his political ally, the CNDP rebels.

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

The population of the Rwandan capital Kigali is growing at a rate of approx 8% per annum, and more than 80% of the inhabitants are living in informal settlements with hardly any basic infrastructure like electricity, water, sewage or paved roads. The need for urbanization and reconstruction is obvious and paralleled by the intention of the Rwandese government to strengthen the capital’s role as motor of economic development in the country and the whole Central African region. Therefore in 2008 the government has adopted the “Kigali Conceptual Master Plan” that describes the transformation of Kigali’s city centre into several business districts, where national and international investors can acquire building sites for their companies or estates at a reduced price. But even as Rwanda has signed the UN Habitat Agenda of Istanbul 1996, it did not respect the right to shelter and housing according to the international human rights agenda.

Local inhabitants of those areas with low standard housing have to leave their homes and land, and are entitled to receive compensation payments. The municipality of Kigali has determined fixed values for the expropriations, but these sums are rated far below the market value of the estates. The expropriation law declares that after the official notification, a government representative will estimate and communicate the compensation sum within days. Then the inhabitants have 90 days to leave their property and receive the indemnity.

In many cases, the legally foreseen procedures have not been respected. Hundreds and thousands of households have been displaced without receiving a clear moving notice in advance, leaving the inhabitants homeless overnight, as their houses and belongings were suddenly destroyed. In other cases, house owners were informed that they had to leave their land, but were then left in uncertainty for months and years during which they could not fully use or maintain their houses or farm their land.

Tenants were left without any compensation, as the indemnity was only paid for land lords, leaving many households without support and alternative housing.

In general, the replacement process affected some of the poorest and most vulnerable groups in Kigali, as the city centre is populated by households with very low incomes, single parents or persons without a broader social network. These households had to find new accommodation without any financial support. As a consequence, rent prices for tenants have risen in the city center, and the remaining informal settlements became even more crowded, which increases the health risks for all inhabitants. As the fees for public transport are high in Kigali, many people who had

to move to the suburbs now face difficulties in earning enough to cover their transport costs as well as their daily needs.

Unpaid compensations, uncovered expenses for moving or rebuilding, high rents and transport costs have driven many households into poverty and debts or forced them to leave Kigali and find new ways of income in the rural areas, where income generation is even more difficult.

So far the Rwandese government has not offered sufficient and adequate facilities for the displaced households. Next to one model-housing program in Batsinda no other social housing schemes have been implemented or planned, leaving thousands of inhabitants of Kigali's poor areas without shelter.

3. The Right to Food and Agricultural Reform

Rwanda's population growth rate is currently at approx. 2.9 % per annum, while at least 22 percent of households (2.2 million people) are food-insecure, and another 24 percent are highly vulnerable to food insecurity. Food utilization is also a problem, as reflected in high levels of maternal and child malnutrition in many parts of the country. Over 50 percent of children are chronically malnourished, while one child in four is underweight.

Therefore Rwanda has adopted an Economic Development and Poverty Reduction Strategy (EDPRS) for 2008-2012 which includes an ambitious agricultural reform scheme called "Green Revolution" that aims to transform the Rwandan agricultural sector from subsistence farming to export oriented cash crop production.

Under the leadership and control of the Ministry for Agriculture MINAGRI, Rwandan farmers were instructed on the kind and quantity of crops and livestock they have to produce. Production schemes have been enforced vigorously, and single family owned farms had to be united with others to form cooperatives. Numerous peaces of land have been expropriated and offered for larger agricultural production companies that produce cash crops for the global market like tea, flowers or spices. This policy helped to increase the export rates of the Rwandese national agricultural economy, but left several thousand farmers without land and income. It is planned by the government of Rwanda to reduce the percentage of citizens directly depending on subsistence farming from 85% (2009) to 50% in 2020. But so far, while thousands of Rwandans are expropriated from the land that they have farmed in their families for generations, no alternative job opportunities have emerged, which leaves a growing number of citizens without income in the rural areas. Most affected are inhabitants of densely populated areas or from families with many children. Land scarceness, land consolidation, mechanization and the directives on seeds and cultivation have improved the income of some farmers, but left behind an increasing number of households in growing poverty and malnutrition.

4. Civil and Political Rights in Rwanda

In the year before the presidential elections in August 2010, the democratic space has clearly narrowed for oppositional parties, NGOs and media in Rwanda. Especial-

ly for political parties outside the governmental coalition, the freedom of association has repeatedly denied. In 2010, the Socialist Party Imberakuri (PSI) has been officially registered, but was then infiltrated by forces close to the ruling RPF Party and thereby became incapable of action. Frank Habineza and Charles Kabanda tried to found the Democratic Green Party, but have been hindered bureaucratically since 2009 at their attempts to have their oppositional force registered as an official party. Victoire Ingabire Umuhiza, who returned to Rwanda in February 2010 from exile in the Netherlands, wanted to form the “United Democratic Forces” and run as a candidate for the presidency. Since her first day in Rwanda, she has been marked as a “Divisionist” by the government and some leading media and has been charged with several crimes soon after. She is currently awaiting her trial.

NGOs, human rights defenders and media cannot enjoy their freedom of opinion and expression but face a constant level of threat, as soon as they dare to question the government of Rwanda or its policies. The researcher of Human Rights Watch Carina Tertsakian has been forced to leave the country in April 2010. Other human rights activists reported death threats to them or their family members, attacks on their cars, or incrimination under the law against “Divisionism”. Arbitrary arrests have been reported several times, where the detained have been intimidated or even hurt.

Two high ranking members of the Rwandan Army RPF (Patrick Karegiya, Faustin Kayumba) and one former minister (Stanley Safari) have fled within the last two years and reported that they had received death threats as they had mentioned critical positions against the government. Major Emmanuel Karenzi Karake and Colonel Charles Muhire, who both held important positions in the army and were close to President Kagame, have been imprisoned in April 2010, allegedly for challenging the President in his absolute power. There has been an attempted murder against Faustin Kayumba on 19 June 2010 at his exile in Johannesburg.

The popular newspapers “Umusesu” and “Umuvingizi” have been banned for six months in April 2010, i.e. after the presidential elections in August 2010, because of their open criticism against the government. Journalists like Bonaventure Bizumweyemi or Jean Bosco Gasasira have been attacked violently and threatened. Journalist Jean Leon Rugagambe of “Umuvingizi” has been shot on 24 June 2010 in Kigali, after he did some research on the attempted murder of Faustin Kayumba. Because of the increasing threats self-censorship within human rights organizations and media is widespread to avoid confrontation with the authorities.

5. Access to Justice

After the 1994 the Rwandan government and society faced the need to come to terms with the over 100 000 alleged genocide perpetrators in the national prisons, but also walking free in their communities. To handle those cases awaiting their trials, the traditional system of local or village courts called “Gacaca” was reinvented. Between 2001 and 2010, an estimated number of 120 000 cases have been tried by locally elected juries.

While one part of these trials have fulfilled the foreseen aims to establish the truth about the genocide in the local communities, to reconcile parts of the society and to find just punishment for the responsible, a large number of the verdicts seem to be highly unfair. Critics of the Gacaca courts claim that the accused had to face the juries without a lawyer, which meant that the defendants had no protection. The trials were also based on witnesses' testimonies, even when most memories must have become quite unreliable after so many years since the events.

There have also been many reports on unfair play by witnesses, accused and victims. False accusations and intimidation of witnesses on both sides have occurred in many cases. The high acquittal rate of over 20 % indicates that many of the Gacaca trials have not been successful, but were influenced by the personal interest of the participants, be it the accused, the representatives of the victims or the elected juries. Personal revenge has been a motive to influence the jury's decision, as well as the attempt of families of the accused to help their relatives by giving false testimony.

6. Arbitrary Arrests and extrajudicial executions, torture

Arbitrary arrest, extrajudicial killings and torture are not omnipresent in Rwanda, but they do happen and police staff usually stays unpunished for these crimes. In most cases, arbitrary arrests occur in connection to unwanted criticism against state authorities or after political actions of opposition parties or NGOs and media. As one example of many, Prof. Idesbald Byabuze Katabaruka, a Congolese national and university professor, has been arrested arbitrarily after he published an article on the lack of democratic freedom in Rwanda in 2007.

On 24 and 25 June 2010, ca. 100 – 300 participants of a demonstration for more democratic space have been arrested. The fate of some of them is still unclear as of today.

Human rights watch has reported at least 26 cases of deaths in custody between 2006 and 2007. It seems that police officers frequently abuse their power and torture or even kill detainees without consequences.

Also children under the age of 16 years have been detained. Especially homeless children or juvenile delinquents are arrested and regularly sent to "education camps" or prisons. There are even special "Ingando camps" for street children on an Island in the Kivu lake. There they are held in custody until they are "ready to be employed."

7. Freedom of Opinion and Association

In 2001 the Rwandan parliament passed a law defining divisionism: "*when the author makes use of any speech, written statement or action that causes conflict that causes an uprising that may degenerate into strife among people.*" The constitution has a similar clause that was followed by the 2008 law against genocide ideology.¹ Since

¹ "The crime of genocide ideology is characterized in any behaviour manifested by facts aimed at dehumanizing a person or a group of persons with the same characteristics in the following manner:1. threatening, intimidating, degrading through defamatory speeches, documents or actions which aim at propounding wickedness or inciting hatred;2. marginalising, laughing at one's misfortune, defaming, mocking, boasting, despising, degrading, creating confusion aiming at negating the genocide which occurred, stirring up ill feelings, taking revenge,

2008, human rights groups have repeatedly documented cases, where the Rwandan government used the vague provisions of this new law in order to suppress its opposition. Victoire Ingabire, Deo Mushayidi, Peter Erlinder, Joseph Ntawangundi, but also the former President Pasteur Bizimungu and many more have been accused with this crime. While the law actually seeks to condemn all forms of ethnic incitement or the attempt to divide the population, it has become a universal tool used by the authorities to intimidate or incriminate oppositional forces or critical voices. As the law is very vague, it allows a flexible handling against diverging attitudes and ideas rather than actions. The law on divisionism therefore is used to enforce a uniform national interpretation of the Rwandan history and the causes of the genocide, where the ruling party RPF is declared to be the only safeguard against ethnic violence. Questioning the history of the RPF or even mentioning murders and crimes that the RPF has committed between 1991 and 2001 touches this narrative at its weak spot and is therefore regarded as high treason and punished by the law against divisionism.

Another means of installing a synchronized concept of the Rwandan history is the enforced participation of all Rwandan citizens in the so called "Ingando camps". These 2-12 week long training camps combine elements of basic military training with heavy political indoctrination, where the ruling party and the government are declared to be the only solution to any challenge in the Rwandan society. Attempts to search for alternatives or to criticize the government are immediately connected with the crime of divisionism. All members of civil service, but also business people, students, groups and associations from all parts of life are asked to participate voluntarily, but a decline to join in is heavily sanctioned.

8. International Humanitarian Law and Extraterritorial Obligations

Since 2001 Rwanda has achieved considerable political, economical and military influence in the eastern provinces of the Democratic Republic of Congo via its military ally and representative, the CNDP militias. Only after a report of the UN experts group on the DR Congo in December 2008 revealed the economic and political interweavement between the CNDP and the Rwandan government, Rwanda had to distance itself from the CNDP militias and arrest the CNDP leader General Laurent Nkunda. In 2009 the CNDP officially gave up their status as illegal militia and became integrated into the Congolese national army FARDC. Yet so far the CNDP still exclusively controls important parts of the mining sector in the Kivu region, and their commanders enjoy relative independence for their troops within the FARDC. CNDP Commander Bosco Ntaganda, who is searched by an international arrest warrant of the International crime tribunal of The Hague has not been extradited.

During the time of their cooperation with Rwanda, CNDP troops have been responsible for the systematic economic exploitation of large areas of the Kivu region and the local population. In 2006 the CNDP raided the capital of South Kivu, Bukavu, and

altering testimony or evidence for the genocide which occurred;3. killing, planning to kill or attempting to kill someone for purposes of furthering genocide ideology.

looted large parts of the city. Thousands of women and girls have been raped, thousands of civilians were killed. So far, there has been not local or international investigation to research the crimes committed by the CNDP under the alliance with Rwanda.