



Rwanda Human Rights and Political Prisoners
A Briefing by the Tom Lantos Human Rights Commission
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Chairman Hultgren and Chairman McGovern, on behalf of the members of Amnesty International USA I would like to thank both of you for your leadership and commitment to human rights during this session of Congress and over the years and for holding this important briefing.

Chairman Hultgren, I know that I speak for all of the team in AIUSA's DC office in expressing our sincere gratitude for the support and energy that you and your staff have brought to the work of the Commission and in championing human rights in the House. We look forward to continuing to work with you in whatever capacity you move in to next, to continue this important work.

Amnesty International is a global human rights movement established in 1961 with 7 million members, offices in Dakar, Nairobi, Johannesburg, Abuja and a presence in 70 countries. We have been working to improve the respect and protection of human rights in Rwanda since the early 1970s.

Amnesty International does not take a position on the type of political system a country may have. It is our belief that fundamental human rights must be guaranteed and upheld by all political systems. We do consider the rights associated with elections such as freedom of expression, association, assembly among others, to be critical - not only to the election itself but also to the overall health of open political space. The way governments engage with critics and voices of dissent, how they interact with civil society and treat human rights defenders are critical indicators that go beyond a single election.

The case of Diane Rwigara is a chilling expose on the culture of fear and repression that exist in Rwanda. Ms. Rwigara, her mother Adeline Rwigara, and four others Tabitha Gwiza, Xavérine Mukangarambe, Edmond Mushayisha and Jean Paul Turayishimiye, in absentia, were charged with "inciting insurrection or trouble among the population". Ms. Rwigara was also charged with "forging or alteration of documents" and "use of counterfeited documents". Her mother Adeline Rwigara faced an additional charge of "discrimination and sectarian practices."

¹ Prepared with the help of Rachel Nicholson

Diane Rwigara had sought to compete in the August 2017 presidential election but following an apparent smear campaign and intimidation of her representatives, her candidacy was rejected by the National Elections Commission (NEC) on July 7, 2017. She was accused of submitting forged signatures. Police interrogated Diane Rwigara and her relatives at their home in Kigali on August 29, 2017 and prevented them from leaving their house. For several weeks, the family was questioned by police and their movement restricted. On September 23, the police arrested Diane and Adeline Rwigara, and Diane's sister Anne.

Anne Rwigara was released on October 23, 2017 and the charges against her were dropped, but Diane and Adeline Rwigara remain in pre-trial detention. The incitement charges against Diane Rwigara are based on comments she made at press conferences she held, including the launch of the People Salvation Movement, her new activist group, on July 14, 2017. Her comments were critical of the ruling party, condemned problems of injustice and the state of the economy. At a pre-trial hearing in November 2017, the Prosecutor was reported as saying that the words she used "clearly show that she intended to smear the country and its leadership with lies."

According to Rwandan electoral laws, individuals seeking to stand as independent presidential candidates are required to collect signatures or fingerprints from at least 600 registered voters, including at least 12 people living in each district of the country. The NEC rejected Diane Rwigara's candidacy and accused her of submitting forged signatures. In a pre-trial hearing on October 16, 2017, the Prosecutor told the court that he had 70 witnesses who would testify that Rwigara faked their signatures, and that some of the signatures belonged to dead people. Diane Rwigara has denied all the allegations including using forged signatures.

The charges appear to be based entirely on private WhatsApp voice messages exchanged between Adeline Rwigara and the four co-accused abroad. Some of the messages which were leaked to the media in September 2017 were highly critical of the Rwandan state. Amnesty International is not aware of these messages having been disseminated publicly by Adeline Rwigara or the co-accused.

As a general rule, private speech should not be criminalized. While certain limitations may be imposed on freedom of expression, in line with Article 19 of the International Covenant on Civil and Political Rights, to which Rwanda is a state party, they must be clearly laid out in national law, have a legitimate aim and be necessary and proportionate to that aim. Indeed, international law requires the prohibition of the use of hate speech, particularly speech that could amount to incitement to genocide.

Diane and Adeline Rwigara were released on bail on October 5, 2018. While there were numerous pre-trial hearings dealing with requests for provisional release and other issues such as the request to separate the cases from those accused in absentia, there was only one hearing on the substance of the case, which took place on November 7, 2018 and was over within hours. A decision on the case is expected on December 6, 2018.

In addition to the often-used charge of “incitement to insurrection or trouble among the population”, Rwanda has introduced laws criminalizing genocide ideology, and discrimination and sectarianism in order to restrict speech that could promote hatred. However, the vague wording of these laws has been misused to stifle legitimate freedom of expression and criminalize criticism of the government, such as in the case of Victoire Ingabire, President of the unregistered political opposition party the Unified Democratic Forces (FDU) who was convicted on a similar charge of incitement by the Supreme Court in 2013.

The African Court on Human and Peoples’ Rights ruled in November 2017 that Victoire Ingabire’s conviction violated her freedom of expression, noting that “by virtue of their nature and positions, government institutions and public officials cannot be immune from criticisms, however offensive they are; and a high degree of tolerance is expected when such criticisms are made against them by opposition political figures.”

The case against Diane Rwigara and her mother Adeline is unfortunately emblematic of the larger context of fear, repression and closing political space in Rwanda.

The August 4, 2017 election granted incumbent President Paul Kagame his third term in office. The election followed a referendum in 2015 that changed the constitution and allowed President Kagame to stand again in 2017 and for two further terms should he so wish.

During the 24 years that the Rwandan Patriotic Front has ruled the country there has been an unwavering, often brutal campaign against government critics and human rights defenders.

This campaign has included attacks on political opposition members including arrest, detention, disappearances and killings, restrictions on the media and the activities of civil society organizations and the creation of a climate of fear.

These concerns have been echoed by other human rights organizations and the US Department of State which in its 2016 and 2017 reports. The 2017 report noted:

The most significant human rights issues included: arbitrary killings and politically motivated disappearances by security forces; torture and other cruel, inhuman, or degrading treatment or punishment by security forces; harsh and life-threatening prison and detention center conditions; arbitrary arrest; security forces’ disregard for the rule of law; prolonged pretrial detention; infringement on citizens’ privacy rights and on freedoms of speech, assembly, and association; restrictions on and harassment of media and some local and international nongovernmental organizations (NGOs); restrictions on freedom to participate in the political process and the ability to change government through free and fair elections; harassment, arrest, and abuse of political opponents, human rights

advocates, and individuals perceived to pose a threat to government control of social order; trafficking in persons; and restrictions on labor rights.²

These patterns of abuse continued in lead up to the 2017 elections. Key human rights violations included attacks on the political opposition and restrictions on independent civil society and media.

Attacks on Political Opposition

The government has actively cracked down on political opposition groups over many years, in addition to the smear campaign and prosecution that followed Diane Rwigara's attempt to run for president.

The unregistered opposition political party **FDU-Inkingi** has faced numerous restrictions since its president, Victoire Ingabire's, return to Rwanda in early 2010 to attempt to stand in the 2010 presidential election. On the day of her return, she made a speech in which she discussed the lack of recognition of Hutus that had been killed during the genocide. She was sentenced to 8 years of prison for "conspiracy to harm the existing authority and the constitutional principles using terrorism, armed violence or any other type of violence" and "grossly minimizing the genocide."

Amnesty International is not in a position to assess the validity or otherwise of the terrorism-related charges in this case. However, during the trial, the judges showed open hostility toward her and constantly interrupted her despite the fact that the evidence used to convict her was linked to the legitimate expression of her ideas as guaranteed under the African Charter for Human and Peoples' Rights and the International Covenant on Civil and Political Rights. When she appealed her conviction to the Supreme Court on the basis of unfair trial, the Court said her claims were unfounded and lengthened her imprisonment to 15 years for spreading lies in order to incite the population to revolt against the current government.

Victoire Ingabire took her case to the African Court on Human and Peoples' Rights. While the Court dismissed a number of her claims, it did find that her right to defense was violated due to a number of procedural irregularities in the trial, including the "difficulty encountered by the Applicant's Defense Counsel in putting questions to the co-accused, the threats and environment of intimidation faced by the defense witness and the use of documents seized during what the Applicant considers an illegal search, that was later used against her, without giving her the chance to examine it".

The Court also found that her freedom of expression was violated, stating that "the Applicant's conviction and sentence for making the above statements both at the Kigali Genocide Memorial and on other occasions, was not necessary in a democratic society. Even if this Court were to accept that there was a need to put restrictions on such statements, the Applicant's punishment was not proportionate to the legitimate purposes which the conviction and sentence seek to achieve. In this regard, the Court notes that the Respondent State could have adopted other less restrictive measures to attain the same

² Rwanda, Country Reports on Human Rights practices for 2017, Bureau of Democracy, Human Rights and Labor, US Department of State, April 20, 2018

objectives." In addition, the Court noted that "by virtue of their nature and positions, government institutions and public officials cannot be immune from criticisms, however offensive they are; and a high degree of tolerance is expected when such criticisms are made against them by opposition political figures."

On 14 September 2018, President Kagame informed the cabinet that he was exercising his prerogative to grant mercy to Victoire Ingabire and the popular singer Kizito Mihigo and commute their sentences. On the same day, the cabinet approved a ministerial order granting release on parole to 2138 other prisoners. Kizito Mihigo and Victoire Ingabire were released on 15 September. However, under the terms of their release, they are required to report to the local prosecutor on a monthly basis and seek authorization each time they want to travel abroad.

Victoire Ingabire has been warned against speaking out freely and reminded that her release is conditional. She was summoned to the Rwanda Investigation Bureau (RIB) on 9 October 2018. In a statement issued the same day, RIB stated that Victoire Ingabire had responded "to a summons to discuss factually-incorrect statements recently made by her, or attributed to her, that may constitute violations of the Penal Code. Specifically, at issue are characterizations of her conviction as "political", and references to others as "political prisoners". Ms. Ingabire applied for and received a conditional commutation of the remainder of her sentence, but her conviction by the Supreme Court still stands."

In March 2016, another member of the **FDU-Inkingi** party, Illuminée Iragena, went missing, and another, Leonille Gasengayire was arrested for inciting insurrection, but was later acquitted. Both members were known to have visited Victoire Ingabire in prison. In September 2017, the party's vice-president Boniface Twagirimana, along with Leonille Gasengayire and several other members were arrested, accused of links to armed groups operating in a neighboring country.

Other opposition party figures such as members of **PS-Imberakuri** party have previously been arrested and found guilty of "divisionism" for criticizing government policies. This follows the murder of the vice-president of the Green Party in 2010 and the disappearances of another member of the party.

On 8 October 2018, Boniface Twagirimana, FDU vice-president, was reported missing from a maximum-security prison. While the prison authorities announced that he escaped from prison with a fellow detainee, his family and colleagues have expressed fears that he may have been killed. Boniface Twagirimana was moved to Mpanga from Mageragere prison on 3 October, five days before his alleged escape. Previously detained with his co-accused, only Boniface Twagirimana was transferred on this date. According to his wife, who was informed of the transfer and visited him at Mpanga on 5 October, he and Aimable Murenzi were held in a separate building to the other inmates. She also said that her husband had been warned by other prisoners that his cellmate was a dangerous man. An investigation has been announced, but Boniface Twagirimana's fate and whereabouts remains unknown.

Restrictions on Independent Media and Civil Society

The Rwandan government continues to suppress the independence and freedom of the media. Numerous journalists have been imprisoned, harassed and even killed, while many more have fled into exile over the years.

Just last month, on 21 November 2018, Phocas Ndayizera, a journalist who often worked for the BBC, was reported to have disappeared. On November 28, he was paraded at a media briefing by the Rwanda Investigation Bureau. RIB's spokesperson said that he was arrested on 21 November in Nyamirambo, an area of Kigali, where he had gone to receive explosives, and that he was being investigated on terror charges. Phocas Ndayizera denied the allegations.

The Penal Code was amended and the new "Law determining offences and penalties in general" was promulgated in September 2018. As had been long requested, general defamation offences were removed. However, new provisions were introduced making "humiliation of public officials" (in writing or by cartoons) and defamation of the President of the Republic specific criminal offences.

In 2016, at least three journalists were briefly detained after investigating sensitive issues, such as corruption or possible suspicious deaths on the part of the Rwandan government. The government also impedes the work of NGOs in the country through excessive registration procedures.

The BBC Kinyarwanda services were indefinitely suspended by the Rwanda Utilities Regulatory Authority (RURA) on 29 May 2015 after the broadcast of the documentary *Rwanda's Untold Story*, on the grounds that it violated Rwandan laws on genocide denial, revisionism, inciting hatred and divisionism.

The editor of *Umurabyo*, an independent Kinyarwanda-language newspaper, and her colleague were convicted in February 2011 on the grounds of articles they had written criticizing government policies and making corruption allegations against senior government officials, including President Kagame. While both were eventually released their incarceration is a chilling example of what journalists and human rights defenders in Rwanda risk for doing their jobs.

These actions mirror previous media crackdowns. The government suspended the newspaper *Umuwugizi* and another private Kinyarwanda-language newspaper *Umuseso* from April to October 2010, the same period as the 2010 elections. The Rwanda Media High Council then called for their indefinite closure claiming that some of their articles threatened national security.

Conclusions

In 2010 President Kagame won 93% of the vote. In 2017 he won 99%. The concerns listed above are just some examples of the patterns of repression over the 24-year rule of the RPF.

In 2010, Amnesty reported that authorities tightly controlled political space in advance of the 2010 presidential elections, freedom of expression was unduly restricted by broad laws on genocide ideology, human rights defenders continued to exercise self-censorship to avoid confrontations with the authorities, and conventional courts still fell short of fair trial standards.

In 2010, we reported that the authorities restricted freedom of expression and association before presidential elections in August. For example, media outlets that criticized the government were closed down and editors fled Rwanda, human rights defenders faced intimidation and investigations into killings were inadequate.

In 2012 Amnesty reported that the Rwandan government increasingly prosecuted individuals for criticizing government policies and that there was a rise in unlawful detentions. Violations included restrictions that were imposed on freedom of expression and the arrests and unfair convictions of opposition politicians and journalists.

In 2013, Amnesty reported that the government continued to stifle legitimate freedom of expression and association and that the illegal detention and allegations of torture by Rwandan military intelligence were not investigated. That year the Rwandan government was also found by the UN Group of Experts to have provided military support to the M23 armed group in the neighboring Democratic Republic of the Congo (DRC) which was linked to rape, extrajudicial execution and the use of child soldiers. The government's crackdown and restriction on freedom of expression, assembly and association, repression of journalists, human rights defenders, and members of opposition parties who openly criticized the ruling government, use of unfair trials and unlawful detentions were raised in our Annual Human Rights Reports for 2014, 2015 and 2016.

In 2017, we again reported on the severe restrictions faced by human rights defenders, media and opposition politicians on their rights to freedom of expression, association and peaceful assembly in the run-up to that year's elections and over many years.

The international community has been at best, half-hearted in confronting President Kagame and pressing the Rwandan government to reform its policies regarding human rights and political space. Some have argued that Rwanda is still emerging from the 1994 genocide. Others have argued that because Rwanda is doing well economically the current administration should be given more latitude. This argument must be rejected as it subverts our common obligation to protect and stand for rights that have been adopted as universal.

Amnesty International has called on the Government of Rwanda to embark upon a longer-term reform process to open up political space before the 2024 elections. We urge other governments to support this call.

Recommendations

The international community must speak up in defense of human rights defenders, journalists and civil society in Rwanda including

1. Calling on President Kagame and the government of Rwanda to prevent restrictions on, or harassment of, opposition politicians, their supporters, journalists and human rights defenders;
2. Calling on the government of Rwanda to establish an independent judicial investigative mechanism into unresolved killings and disappearances, including the murders of Andre Kagwa Rwisereka, Jean Leonard Rugambage and Jean Damascene Habarugira, as well as the disappearances of Illuminée Iragena, Jean Damascène Munyeshyaka and Boniface Twagirimana;
3. Calling on President Kagame and the government of Rwanda to promote respect for the rights to freedom of expression, peaceful assembly and association and ensure that no one is convicted for the legitimate exercise of these rights;
4. Calling upon the Rwandan government to reform the Law on Public Assemblies to remove the requirement for prior authorization for public assemblies and instead adopt a regime of prior notification.
5. Reviewing US assistance to Rwanda, in particular any security assistance to ensure effective transparent oversight and prevent any US assistance from facilitation of the commission of human rights abuses.
6. Increase funding for programs focused on building respect for human rights, the rule of law and independence of the judiciary.