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RWANDA: GRAVE DOUBTS ABOUT THE FAIRNESS OF THE FIRST TRIALS

The first trials of people charged with genocide and other crimes against humanity in Rwanda have been largely unfair -- with most prosecutors and judges having little training, some trials lasting only a few hours, and an apparent assumption that defendants are guilty unless proven innocent, Amnesty International said in a new report issued today.

“The fact that trials are being held at all represents a significant step towards restoring justice in Rwanda, but the serious flaws in both law and practice put at risk the lives of those charged and the attempts at rebuilding the Rwandese justice system,” the organization said.

In the 25-page report, based on observations of trials in Rwanda in January/February and a review of the law governing genocide trials (Organic Law 8/96), the organization details its concerns about the law, the conduct of the first trials, the appeals process and about the sentencing including the death penalty. It also includes a series of detailed and practical recommendations based on the observations of the trials in Rwanda. While Amnesty International welcomes the efforts made by the Rwandese Government to put an end to the culture of impunity, it expresses its fears that in the near future, a large number of defendants may be sentenced to death and executed after unfair trials.

“For the government’s efforts and the trials themselves to be effective, they need to conform to international standards of fairness,” Amnesty International said.

The necessary facilities to prepare the defence are curtailed by the Rwandese Code of Criminal Procedure which provides only eight days prior to the start of trials. The difficulties which defendants have experienced in preparing their defence have been aggravated by the appalling conditions in Rwandese prisons, including serious overcrowding, absence of writing materials, and lack of assistance for illiterate defendants.

Most prosecutors and judges have only received up to six months’ training, without prior legal training whatsoever. Despite the significant progress made in recent months to rebuild the judicial system, the use of judicial officials not adequately trained has seriously jeopardised the process and outcome of trials.

Furthermore, throughout 1995 and 1996, a number of judicial officials have been moved from their posts, apparently as result of government or military interference with their duties. Because he had apparently denounced the interference of the authorities in the functioning of the judiciary, Celestin Kayibanda, Prosecutor of Butare, was arrested in May 1996 on charges of genocide. Reports of such interference have continued this year.

“In the climate of bitterness and suspicion which prevails after the genocide, many defendants accused of genocide are considered guilty unless proved innocent,” Amnesty International said.

In at least two trials, the court did not prevent defendants being jeered by spectators. Public statements by government officials declaring all defendants guilty in the months preceding the trials add to the risk of erroneous convictions and put judges under real or perceived pressure. The judges have failed to investigate claims by some defendants that they incriminated themselves under torture.

“The Rwandese government should issue a directive to judicial officials advising them to exclude any confession obtained as a result of duress or torture,” Amnesty International said.

Rwanda has ratified many international conventions, including the African Charter on Human and Peoples’ Rights. These conventions stipulate that every person has the right to a fair and public hearing by a competent, independent and impartial tribunal, and to be presumed innocent until proven guilty. The first trials show a serious disregard for all these principles.

By the end of February, at least 13 defendants had been sentenced to death. The first trial on 27 December 1996 lasted only about four hours. Déogratias Bizimana, a former medical assistant and Egide Gatanazi, a former local government administrator, charged with genocide and crimes against humanity, had no access to legal counsel before and during their trial. A week later, they were pronounced guilty and sentenced to death. They have filed an appeal, but by the end of February, it had not yet be heard. On 10 January, the trial of three former teachers accused of genocide and crimes against humanity also lasted only four hours, without the assistance of a defence lawyer. On 17 January, they were sentenced to death.

“While some of the more prominent defendants -- such as Froduald Karamira -- appeared to benefit from trials which had fewer problems, some of the lesser-known defendants were subjected to the most unfair trials,” Amnesty International said.

Inadequate training for most trial judges and prosecutors, in addition to the absence or lack of proper training and experience of defence lawyers remains the most significant obstacle to a fair trial in Rwanda. For about 100,000 prisoners awaiting trial, there are only 16 defence lawyers currently practising in Rwanda. The present climate of hostility towards those accused of genocide may explain the reluctance of many lawyers to be involved in these trials.

In cases where the accused have been allowed a lawyer and sufficient time to prepare their defence, trials, despite their outcomes, were characterized by greater respect for proper procedures.

“The establishment of an adequately trained, permanent body of Rwandese defence lawyers is essential for the many trials which will be taking place in the months and years ahead,” Amnesty International said. “The international community should invest sufficient human and financial resources to ensure that this becomes a reality.”

The organization is concerned that the Organic Law 8/96 limits the rights of appeals to questions of law or flagrant errors of fact. Defendants who have been sentenced to death are reported to have filed appeals, but by the start of April their appeals had not yet been heard

Amnesty International is unconditionally opposed to the use of the death penalty, in all countries, because it is a state-sanctioned violation of the right to life. In Rwanda, the situation is of special concern when people may be sentenced to death after unfair trials.

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