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Rwanda: Provisional release of genocide prisoners - priority should be accorded to the "sans-dossiers"

As the government of Rwanda prepares to release thousands of detainees who have reportedly confessed to participation in the 1994 genocide, Amnesty International urges the Rwandese authorities to release as a matter of priority thousands of so-called *sans dossiers*.

These are detainees against whom no formal charges have been brought, whose charges have been dropped or for whom *prima facie* cases have not been established, i.e. detainees whose case files did not meet strict standards regarding their potential guilt.

"The judicial investigation of the *sans-dossiers* is long overdue; if the government cannot establish a *prima facie* case against them, they should be released immediately. The government frequently maintains that it has lacked the resources to investigate allegations promptly and try cases, but the recent rapid collection of confessions for the planned 7 April mass provisional release, as well as last year's review of confessions and provisional release of close to 25,000 detainees, demonstrates that the government is capable of taking rapid action," Amnesty International said.

Many of these detainees are allegedly innocent; some of them have spent up to nine years in overcrowded, unsanitary detention facilities where they were reportedly subjected to cruel, inhuman and degrading treatment. Some were possibly wrongly accused of participation in the genocide as a result of political, economic or other opportunism.

In one illustrative case, Dominique Makeli, formerly a journalist at Radio Rwanda, was arrested on 18 September 1994 by the Department of Military Intelligence, which does not have the legal right to detain. He did not appear before a judge until March 1997. Makeli received no information about the allegations against him until March 1999 when he was accused by the Kigali substitute public prosecutor of refusing to shelter Tutsis during the genocide. At the end of 1999, the council chamber further accused him of having taken part in attacks against Tutsis, and finally in October 2001 the Kigali public prosecutor also accused him of having incited genocide in his work. *Gacaca* (community-based) trials in Makeli's home area yielded no charges against him. Makeli's name, moreover, was not on the list of suspected genocide perpetrators that the public prosecutor's office turned over to the *gacaca* tribunal that will try him. Makeli remains in prison. Amnesty International is concerned that the charges against him have been repeatedly changed and that he remains in detention despite having been cleared by his local *gacaca* tribunal.

Amnesty International is concerned that the Rwandan government has shown little commitment to

emptying its jails and prisons of those with unsubstantiated allegations or where allegations have been retracted. Amnesty International considers these individuals to be victims of prolonged arbitrary detention.

"The Rwandan government has used arbitrary detention with blatant disregard for the rights of its citizens, to the point where it considers arbitrary detention, including non-execution of judicial decisions, a normal part of the judicial system," the organization said.

"Thousands of innocent people will remain in prison while those who admit to participation in the genocide will benefit from provisional release," Amnesty International added. Individuals are likely to confess to crimes they did not commit in order to get out of prison.

Background

Close to 80,000 prisoners remain in Rwandese detention facilities, 83 percent of whom are accused of participation in the 1994 genocide. *Procureur Général* (Prosecutor General) Jean de Dieu Mucyo recently announced that prisoners who confessed to their crimes before 15 March 2004 would be eligible for provisional release. This release will be timed to coincide with the commemoration of the tenth anniversary of the genocide on 7 April 2004.

In early 2003, the Government of Rwanda provisionally released close to 25,000 detainees who confessed to perpetrating crimes during the genocide. More than 5,500 of these were subsequently re-arrested when the authorities were presented with evidence of other crimes to which they had not confessed.

The Government of Rwanda has always claimed that all detainees must await the *gacaca* trials to investigate and clear them before they can be released. *Gacaca* jurisdictions, which were inaugurated in June 2002, have yet to try a single case. Less than 800 *gacaca* jurisdictions out of a planned 11,000 tribunals have begun operation.

See Amnesty International's press release: *Rwanda: End of provisional release of genocide suspects* (AFR 47/005/2003), of 29 April 2003 and report, *Rwanda: A question of justice*, 17 December 2002.

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