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# INTRODUCTION

This submission contains background information in advance of the review of Rwanda's periodic report at the 61st Ordinary Session of the African Commission on Human and Peoples' Rights (African Commission) in November 2017.

Amnesty International welcomes Rwanda's submission of its combined 11th, 12th and 13th periodic reports on the implementation status of the African Charter on Human and Peoples' Rights (African Charter) and the initial report on the implementation status of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), covering the period 2009-2016.

This submission outlines a number of issues of concern relating to Rwanda's implementation of the Concluding Observations made by the African Commission following its consideration of the 9th and 10th periodic report of Rwanda during its 47th Ordinary Session held from 12th to 26th May 2010 in Banjul, Gambia; and its implementation of the African Charter, focusing on Amnesty International's ongoing key concerns regarding the human rights situation in Rwanda, including: torture and other ill-treatment, enforced disappearances, access to information and the rights to freedom of expression and association. The submission does not address Rwanda's implementation of the Maputo Protocol.

Rwanda's report focuses on "developments on recent legislation, policies, strategies and measures adopted in order to protect and promote human rights". Amnesty International's submission primarily addresses the impact of these laws and policies, and our analysis of the human rights situation in the country in practice.

While Rwanda should be commended for its ongoing economic progress and development, there were significant restrictions on key civil and political rights throughout the reporting period. An increase in apparently politically motivated human rights violations was noted in the run-up to the 2010 presidential election. The period leading up to the August 2017 election was also marked by a number of serious human rights violations.<sup>1</sup>

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<sup>1</sup> For more information on the background to the August 2017 election, see Amnesty International, *Rwanda: Setting the Scene for Elections: Two Decades of Silencing Dissent in Rwanda*, 7 July 2017, <https://www.amnesty.org/en/documents/afr47/6585/2017/en/>

# LEVEL OF IMPLEMENTATION OF CONCLUDING OBSERVATIONS OF 2010

## DIVISIONISM AND GENOCIDE IDEOLOGY

In its 2010 concluding observations, the African Commission expressed concern that the “meaning given to the concept of divisionism and genocide ideology are too broad and imprecise and have the potential to be misinterpreted and abused if not properly defined. The broad definitions have the potential in particular to restrict freedom of expression and participation, and seem incompatible with an open and democratic society.” The African Commission went on to recommend that Rwanda “establish appropriate mechanisms to ensure that, the Law Relating to the Punishment of the Crime of Genocide Ideology of 2008, and the Law on Prevention, Suppression and Punishment of the Crime of Discrimination and Sectarianism are not used to restrict freedom of expression and other rights and freedoms.”

The law on genocide ideology was reviewed and replaced in 2013 with an amended version, with a more specific definition of the crime as “any deliberate act, committed in public whether orally, written or video means or by any other means which may show that a person is characterized by ethnic, religious, nationality or racial-based with the aim to: i) advocate for the commission of genocide; ii) support the genocide.”

Despite the revision, some language in the provision such as on the aim to “support the genocide” remains somewhat ambiguous in violation of the principle of legality, which obliges states to define criminal offences precisely within the law so that a person can know whether their conduct would amount to a breach of the law. However, the offence of incitement to commit genocide, which is also included in the new law, is more clearly defined in line with Article 3 of the Genocide Convention which prohibits “direct and public incitement to commit genocide”.<sup>2</sup>

## LACK OF SPECIFIC LEGISLATION TO REGULATE LEGAL AID IN RWANDA

The report by the government notes that a draft law on legal aid, a legal aid fund and policy are all works in progress. On 13 March 2017, the government presented draft legislation to parliament revising the legal aid regulatory framework.<sup>3</sup> Amnesty International hopes that the legislation will provide needed clarity on the scope and extent of the policy and ease access

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<sup>2</sup> Article 4 of Law N° 84/2013 of 11/09/2013 on the Crime of Genocide Ideology and Other Related Offences provides that: “Incitement to commit genocide shall be any act committed in public with the intent to encourage, influence, induce or coerce another person to commit genocide. Any person who commits an act provided for by the preceding paragraph commits an offence of incitement to commit genocide.”

<sup>3</sup> KT Press, “New Bill Proposes Quality Affordable Legal Assistance”, 13 March 2017, <http://ktpress.rw/2017/03/new-bill-proposes-quality-affordable-legal-assistance/>

to legal aid for those eligible. In order to access free legal representation under the current framework, accused persons are required to present a certificate of indigence. Legal aid organizations have found that some individuals face problems obtaining this certificate.<sup>4</sup> While the government has provided legal assistance to accused persons in genocide cases transferred from foreign jurisdictions,<sup>5</sup> individuals returned to Rwanda through other avenues (such as deportation rather than a transfer of jurisdiction) to face trial on genocide charges may not automatically be guaranteed legal assistance. In such cases, where an accused person has not lived in the country for many years, it is not clear how they would obtain a certificate of indigence issued by the local authorities.

#### RECOMMENDATIONS TO THE RWANDAN AUTHORITIES:

- Ensure that the proposed law on legal aid provides greater clarity on the criteria for accessing free legal representation;
- Ensure that all accused persons, including genocide suspects that do not fall under international transfer agreements, are able to access legal assistance where necessary;
- Review the procedures for issuing certificates of indigence to ensure that there are no obstacles to access.

#### WITHDRAWAL OF THE DECLARATION UNDER ARTICLE 34(6) OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

As noted in the state party report, Rwanda deposited its declaration under Article 34(6) of the Protocol in March 2013 allowing NGOs with observer status before the African Commission and individuals to directly access the African Court on Human and Peoples' Rights. Several Rwandans have since brought cases to the Court. However, in March 2016, the Government of Rwanda decided to withdraw "for review" its declaration under Article 34(6), stating that it had "realized that the Declaration, as it is currently framed, was being exploited and used contrary to the intention behind its making. Specifically, convicted genocide fugitives secured a right to be heard by the Honourable Court, ultimately gaining a platform for re-invention and sanitization in the guise of defending the rights of the Rwandan people."<sup>6</sup> The Court ruled in June 2016 that Rwanda's withdrawal would come into effect

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<sup>4</sup> Oxfam, "Using ICTs for citizen feedback on legal services in Rwanda", 7 July 2016, <http://policy-practice.oxfam.org.uk/blog/2016/07/using-icts-for-citizen-feedback-on-legal-services-in-rwanda> ; US State Department, Rwanda 2016 Human Rights Report, <https://www.state.gov/documents/organization/265502.pdf>

<sup>5</sup> Republic of Rwanda, Ministry of Justice, The 11th, 12th and 13th Periodic Reports of the Republic of Rwanda on the Implementation Status of the African Charter on Human and Peoples' Rights & the Initial Report on the Implementation Status of the Protocol to the African Charter on Human and Peoples' Rights and the Rights of Women in Africa (Maputo Protocol), paragraph 91

<sup>6</sup> Ministry of Justice, Clarification, 2016, [http://www.minijust.gov.rw/fileadmin/Documents/Photo\\_News\\_2016/Clarification2.pdf](http://www.minijust.gov.rw/fileadmin/Documents/Photo_News_2016/Clarification2.pdf)

one year after the deposit of the notice, that is 1 March 2017, and it would have no legal effect on cases pending before the Court. At the time of writing, 13 cases against Rwanda remain pending before the court.

Rwanda's reversal of its decision to allow NGOs and individuals to directly access the Court sets a worrying precedent, especially when only eight State parties currently allow this. In addition, the stated reasoning behind Rwanda's withdrawal appears to question the principle that every individual has a right to have his cause heard (Article 7, African Charter), and to undermine the Court's ability to rule on admissibility in line with the provisions of Article 56 of the African Charter, specifically that applications must be compatible with the Charter of the Organization of African Unity (now the Constitutive Act of the African Union) or with the African Charter itself.

**RECOMMENDATIONS TO THE RWANDAN AUTHORITIES:**

- Reinststate Rwanda's declaration under Article 34(6) of the Protocol to allow NGOs with observer status with the African Commission and individuals to access the African Court directly;
- Continue to participate in and engage with cases ongoing at the African Court, and ensure that Applicants can have access to their lawyers where the Applicants are still in Rwanda.

## **HUMAN RIGHTS SITUATION ON THE GROUND**

### **ARTICLE 5 – PROHIBITION OF TORTURE**

The use of torture is prohibited under the Rwandan Constitution, the Rwandan Penal Code and the Law on Evidence. However, Amnesty International documented more than 45 cases of unlawful detention and 18 allegations of torture and other ill-treatment by the Department of Military Intelligence (DMI) in 2010 and 2011, but believes that the actual number of people who were detained and who were at risk of, or subjected to, torture and other ill-treatment during this period was much higher. Most of the cases Amnesty International documented were of civilians, including demobilized military personnel, although others included members of the Rwandan army or individuals suspected of belonging to the Democratic Forces for the Liberation of Rwanda (FDLR). After their arrest, the men were detained incommunicado often for several months and interrogated by military intelligence. The authorities denied holding those arrested or did not respond to requests for information from family members or lawyers. They were denied access to lawyers, family members and medical assistance while in detention. Some were reportedly subjected to torture and other ill-treatment that included serious beatings, the use of electric shocks, deprivation of food and water, and sensory deprivation. Many former detainees said that they had been forced to

sign confessions.<sup>7</sup>

More recently, judges have failed to adequately address allegations of torture during interrogation, in the trial of Colonel Tom Byabagamba, retired Brigadier General Frank Rusagara and retired Sergeant François Kabayiza, at the Military High Court of Kanombe. François Kabayiza complained in court that he had been tortured during interrogation and requested that the resulting testimony be set aside. The court found that he had not provided evidence that he was tortured, in violation of the principle that the prosecution bears the burden of proving beyond reasonable doubt that evidence was obtained lawfully. He was sentenced to five years' imprisonment for concealing evidence on 31 March 2016.<sup>8</sup> Rwanda's law on evidence and its production prohibits the use of evidence obtained through torture in court proceedings.<sup>9</sup>

Rwanda ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in June 2015. In ratifying OPCAT, Rwanda has committed to establishing one or several independent national preventive mechanisms (NPM) for the prevention of torture at the domestic level within one year. At a consultation in September 2016 it was agreed that the NPM would be established as a unit of the National Human Rights Commission (CNDRP).<sup>10</sup>

#### RECOMMENDATIONS TO THE RWANDAN AUTHORITIES:

- Prioritize the prompt finalization of the establishment of the national preventative mechanism against torture, and ensure that it has the necessary resources and independence to effectively fulfil its mandate;
- Ensure civilians, including demobilized military, are only detained in official detention facilities falling under the Ministry of Justice;
- Ensure all detainees, including those held by the military and intelligence services, are examined by a medical professional as soon as they are arrested and have ongoing access to medical care while in detention;
- Ensure that all detainees, including military, are given access to legal counsel from the outset of detention and have access to legal counsel during all interrogations;
- Ensure that international and Rwandan human rights organizations have unhindered access to all Rwandan detention facilities and are able to interview detainees in private;
- Ensure that all victims of torture have a right to an effective remedy and reparations;

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<sup>7</sup> Amnesty International, *Shrouded in Secrecy: Illegal Detention and Torture by Military Intelligence*, 8 October 2012, <https://www.amnesty.org/en/documents/afr47/004/2012/en/>

<sup>8</sup> Amnesty International, *Amnesty International Report 2016/17: The State of the World's Human Rights*, 22 February 2017, <https://www.amnesty.org/en/countries/africa/rwanda/report-rwanda/>

<sup>9</sup> Republic of Rwanda, The 11th, 12th and 13th Periodic Reports, paragraph 84

<sup>10</sup> Association for the Prevention of Torture, "Rwanda: a roadmap for OPCAT implementation," 16 September 2016, [http://www.ap.t.ch/en/news\\_on\\_prevention/rwanda-a-roadmap-for-opcat-implementation/#.WZwevD4jHIU](http://www.ap.t.ch/en/news_on_prevention/rwanda-a-roadmap-for-opcat-implementation/#.WZwevD4jHIU)

- Ensure confessions obtained under duress are not used as evidence in any proceedings;
- Suspend any agents, including military officers, suspected of being involved in acts of torture and other ill-treatment including officials who have instigated, ordered, consented to or acquiesced in, condoned or otherwise participated in such acts of torture and other ill-treatment, regardless of rank, pending the outcome of impartial and independent investigations and ensuing prosecutions; and
- Implement and train law enforcement officials on the African Commission's 2003 Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa and the 2014 Luanda Guidelines on the Conditions of Arrest, Police Custody and Pre-trial Detention in Africa.

## ARTICLE 6 – RIGHT TO LIBERTY AND TO SECURITY OF THE PERSON

Rwanda's periodic report does not cover the issue of enforced or involuntary disappearances. Amnesty International reported on three cases of disappearances in 2016 and 2017, and based on information received, believes that the real number of cases is likely to be higher.

Illuminée Iragena, a member of the unregistered opposition political party United Democratic Forces (FDU-Inkingi), went missing on 26 March 2016 on her way to work as a nurse at the King Faisal Hospital in Kigali. Sources close to the case believe that she was tortured and died in custody. Her family reported the disappearance to the police, but never received an official response. Amnesty International and other organizations requested information on the case and the status of investigations from the government, but likewise have not received a response. The authorities have so far failed to confirm whether or not they are holding her.<sup>11</sup>

On 14 February 2017, Violette Uwamahoro, the wife of a political opposition activist, went missing as she arrived by bus in Kigali. A British national, she had returned to the country to attend her father's funeral. She was held incommunicado for over two weeks, while the Rwandan government initially denied knowledge of her whereabouts. On 3 March, the police confirmed that they were holding Violette Uwamahoro in their custody. She was charged alongside a distant cousin, Jean Pierre Shumbusho, a police officer, with the revelation of state secrets, formation of an irregular armed group and offence against the established government or president. Violette Uwamahoro denied all charges. She was provisionally released on 27 March, after a judge ruled that there was a lack of sufficient evidence against her, and she was allowed to return to the United Kingdom on 12 April.<sup>12</sup>

Previous disappearance cases, such as that of Jean Damascène Munyeshyaka, national organizing secretary of the Democratic Green Party of Rwanda, who went missing on 27 June 2014 from Nyamata, Bugesera District, remain unresolved. The Green Party alleged that prior

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<sup>11</sup> Amnesty International, Rwanda: Come clean about fate of missing activist Illuminée Iragena, 26 March 2017, <https://www.amnesty.org/en/latest/news/2017/03/rwanda-come-clean-about-fate-of-missing-activist-illuminee-iragena/>

<sup>12</sup> Amnesty International, Rwanda: Detained pregnant wife of activist to appear in court, 21 March 2017, <https://www.amnesty.org/en/latest/news/2017/03/rwanda-detained-pregnant-wife-of-activist-to-appear-in-court/>

to his disappearance he had received a telephone call from an individual requesting that they meet immediately.<sup>13</sup>

Amnesty International understands that there is a plan under the framework of implementation of Rwanda's Universal Periodic Review recommendations to establish a desk within the Rwanda National Police to investigate reported cases of enforced disappearances, although information on its current status is unavailable.

#### RECOMMENDATIONS TO THE RWANDAN AUTHORITIES:

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and recognise the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties, as provided in Articles 31 and 32 of the convention;
- Establish or publicize details about the proposed desk at the Rwanda National Police to investigate reported cases of enforced disappearance and ensure that family members can report disappearances without fear of reprisals;
- Ensure that all detainees are given access to legal counsel from the outset of arrest or detention; and
- Reveal the fate and whereabouts of Illuminée Iragena and Jean Damascène Munyeshyaka, or the status of investigations into their disappearances.

#### ARTICLE 9 – ACCESS TO INFORMATION AND FREEDOM OF EXPRESSION

Journalists continued to work in a difficult environment in Rwanda throughout the reporting period, with some employing self-censorship to avoid intimidation and harassment. Journalists have been imprisoned, harassed and even killed.

In the run up to the 2010 elections, Agnes Nkusi Uwimana, editor of *Umurabyo*, an independent Kinyarwanda-language newspaper, and her colleague Saidati Mukakibibi had both written articles criticizing government policies and making corruption allegations against senior government officials, including President Kagame. The articles also made reference to the prevailing feeling of insecurity prior to the elections in 2010 and contended that there were growing divisions within the security forces. In February 2011 Agnes Nkusi Uwimana was convicted for threatening state security, genocide ideology, divisionism and defamation and Saidati Mukakibibi was found guilty of threatening state security. On appeal in April 2012 they were both found guilty of endangering national security, and Agnes Nkusi Uwimana was additionally found guilty of defamation. They were sentenced on appeal to four and three years in prison respectively.<sup>14</sup>

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<sup>13</sup> Amnesty International, *Amnesty International Report 2015/16: The State of the World's Human Rights*, 24 March 2016, <https://www.amnesty.org/en/latest/research/2016/02/annual-report-201516/>

<sup>14</sup> Amnesty International, *Rwandan Journalists' Imprisonment Condemned*, 4 February 2011, <https://www.amnesty.org/en/press-releases/2011/02/rwandan-journalistse28099-imprisonment-condemned-2011-02-04-0/>; Amnesty International, *Annual Report: Rwanda 2013*, 23 May 2013,

On 24 June 2010, Jean Leonard Rugambage, a journalist and the deputy editor of independent newspaper *Umuwugizi* was shot dead as he reached the gate of his home in the Nyamirambo district of Kigali. Jean Leonard Rugambage had been investigating the shooting of the exiled former Chief-of-Staff of the Rwandan Army, Kayumba Nyamwasa, in Johannesburg on 19 June 2010. *Umuwugizi* had published an online article on 24 June 2010 alleging that Rwandan intelligence officials were linked to the shooting. In the days before his murder, Jean Leonard Rugambage had told colleagues that he felt that the surveillance on him had intensified.<sup>15</sup>

In October 2014, the BBC Kinyarwanda services were suspended in Rwanda in response to 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. Following the recommendation of a committee of inquiry led by the former Prosecutor-General, BBC services were indefinitely suspended by the Rwanda Utilities Regulatory Authority (RURA) on 29 May 2015. Fred Muvunyi, chair of the Rwanda Media Commission (RMC), the media's self-regulatory body, resigned in May 2015 and left the country, reportedly following a dispute over the handling of the BBC case, as well as criticisms contained in the RMC's (unpublished) report on the state of the media in Rwanda.<sup>16</sup>

Restrictions on the right to freedom of expression are not limited to the media. On 31 March 2016, Colonel Tom Byabagamba and retired Brigadier General Frank Rusagara were found guilty of inciting insurrection and tarnishing the image of the government when in a leadership position, and sentenced to 21 and 20 years in prison respectively. Their conviction was based on accusations of sharing critical online articles by email and for comments made in social gatherings. Colonel Tom Byabagamba was additionally convicted of concealing evidence and for contempt of the flag. Retired Brigadier General Frank Rusagara was additionally convicted of illegal possession of weapons.<sup>17</sup>

#### RECOMMENDATIONS TO THE RWANDAN AUTHORITIES:

- Undertake thorough, independent and impartial investigations into reports of harassment of journalists and bring to justice those suspected to be responsible where there is sufficient admissible evidence;
- Establish an independent judicial investigative mechanism to look into previous cases of serious human rights violations and abuses against opposition members, journalists and human rights defenders, including the murder of Jean Leonard Rugambage;
- Take measures to ensure that legitimate exercise of rights, such as freedom of

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<http://www.amnestyusa.org/research/reports/annual-report-rwanda-2013?page=2>

<sup>15</sup> Amnesty International, Rwanda: Investigate Murder of Rwandan Journalist Jean Leonard Rugambage, 25 June 2010, <https://www.amnesty.org/en/documents/AFR47/004/2010/en/>

<sup>16</sup> Amnesty International, *Amnesty International Report 2015/16: The State of the World's Human Rights*, 24 March 2016, <https://www.amnesty.org/en/latest/research/2016/02/annual-report-201516/>

<sup>17</sup> Amnesty International, *Amnesty International Report 2016/17: The State of the World's Human Rights*, 22 February 2017, <https://www.amnesty.org/en/countries/africa/rwanda/report-rwanda/>

- expression is not used a basis for criminal convictions; and
- Decriminalize defamation offences in the review of the Rwandan penal code.

## ARTICLE 10 – FREEDOM OF ASSOCIATION

There are very few independent human rights organizations able to operate freely in Rwanda. Human rights defenders are regularly intimidated, harassed, threatened, and subjected to public and personalized attacks or administrative obstacles. As a result, they often avoid working on sensitive issues, and refrain from or delay publishing to minimize the risk of reprisals. There have been several cases of human rights organizations being infiltrated by people close to the authorities.

In July 2013, the former leadership of one of the last remaining independent Rwandan human rights organizations, LIPRODHOR (the Rwandan League for the Promotion and Defence of Human Rights) was forced out in circumstances which strongly indicate the involvement of the Rwandan authorities. On 3 July, LIPRODHOR's president Laurent Munyandilikirwa wrote a letter announcing LIPRODHOR's decision to leave the Collective of Leagues and Associations for the Defense of Human Rights in Rwanda (CLADHO), a platform of human rights organizations, on the grounds that its executive committee had been put in place by the Rwanda Governance Board (RGB). On 21 July 2013, a group of LIPRODHOR members held an extraordinary general assembly to discuss the organization's decision to leave CLADHO, without notifying LIPRODHOR's governing board. At this meeting a new governing board was elected. The new board was promptly recognised by RGB despite complaints by the ousted board regarding the legitimacy of the procedure. The former board challenged the decision in court, and Laurent Munyandilikirwa has taken a complaint to the African Court on Human and Peoples' Rights. He left Rwanda in March 2014, after receiving numerous death threats.<sup>18</sup>

The regional NGO Human Rights League of the Great Lakes Region (LDGL), headquartered in Rwanda, has also faced numerous challenges. On 12 October 2015, LDGL's executive secretary, Epimack Kwokwo, a Congolese national, was taken in for questioning by the immigration services. Seven members of the newly elected executive council and oversight committee were also taken for questioning by police the next day. This took place in the context of a dispute over leadership of the organization. On 28 May 2016, Epimack Kwokwo was expelled from Rwanda when his work permit expired after long delays in renewing the NGO's registration. He attended an appointment at immigration, was notified of his expulsion and then driven to the border with the Democratic Republic of the Congo without being allowed to return home to collect his belongings or inform his family. LDGL's re-registration was granted in November 2016.<sup>19</sup> Pascal Nyilibakwe, LDGL's previous executive secretary

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<sup>18</sup> African Court on Human and Peoples' Rights, Case Summary: Application No. 023/2015, Laurent Munyandilikirwa (Applicant) V. The Republic of Rwanda (Respondent), <http://en.african-court.org/images/Cases/Case%20Summaries/laurent%20v%20Rwanda.pdf>; Amnesty International, Rwanda: Official Interference in Affairs of Human Rights NGO Places Independent Human Rights Work in Peril, 16 August 2013, <https://www.amnesty.org/en/documents/afr47/002/2013/en/>

<sup>19</sup> Amnesty International, *Amnesty International Report 2015/16*; Amnesty International, *Amnesty*

fled Rwanda in September 2010 after a series of threats and harassment against him, linked to his role in preparing a joint civil society report for Rwanda's Universal Periodic Review.<sup>20</sup>

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association conducted an official visit to Rwanda in January 2014. While recognizing progress achieved,<sup>21</sup> he also expressed "concern about the prevailing opposition to vigorous debate and free expression of opinions, which makes the current social reconciliation process unstable" and made detailed recommendations including to ensure that the registration procedure for national and international NGOs is much simpler and faster, as for private companies.<sup>22</sup>

Opposition political parties have also faced numerous obstacles to operating in Rwanda, with several parties such as the FDU-Inkingi remaining unregistered. During the reporting period, opposition political parties have reported administrative obstacles in registering, state surveillance, harassment and intimidation because of their political activities.

Victoire Ingabire, President of the FDU-Inkingi, remains in Kigali Central Prison serving a 15-year prison sentence on charges of conspiracy to harm the authorities using terrorism and minimizing the 1994 genocide. Some of the evidence used to convict her was linked to the legitimate expression of her ideas. Victoire Ingabire had returned to Rwanda in January 2010 after 16 years in exile in Europe.<sup>23</sup>

Léonille Gasengayire, a FDU-Inkingi member, was arrested and detained for three days in March 2016 after visiting Victoire Ingabire in prison. She was arrested again in August 2016 in Kivumu, Rutsiro district, and charged with inciting insurrection. She was acquitted and released on 23 March 2017.<sup>24</sup>

Sylvain Sibomana and Anselme Mutuyimana, members of the FDU-Inkingi, were both sentenced in January 2014 following their conviction for 'inciting insurrection or trouble among the population' after organizing a meeting in Rutsiro district in September 2012. Likewise, six members of FDU-Inkingi served a two-year sentence ending in September 2014 for attending the same meeting in Rutsiro. Sylvain Sibomana, FDU-Inkingi Secretary General,

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<sup>20</sup> Report of the UN Secretary-General on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, 21 July 2011, [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/18/19](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/18/19), paragraphs 57-61

<sup>21</sup> Republic of Rwanda, The 11th, 12th and 13th Periodic Reports, paragraph 102

<sup>22</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, Addendum, Mission to Rwanda, 16 September 2014, <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/CountryVisits.aspx>

<sup>23</sup> Amnesty International, *Justice in Jeopardy: The First Instance Trial of Victoire Ingabire*, 25 March 2013, <https://www.amnesty.org/en/documents/afr47/001/2013/en/>

<sup>24</sup> Amnesty International, *Amnesty International Report 2016/17*

was also convicted of participating in illegal gatherings for taking part in a demonstration outside the Supreme Court during Victoire Ingabire's appeal in March 2013.<sup>25</sup>

Bernard Ntaganda, President of the Ideal Social Party (PS-Imberakuri), served four years in detention at Mpanga prison before being released in June 2014. He had been found guilty in 2011 of "divisionism" for making public speeches criticising government policies ahead of the 2010 elections, breaching state security and attempting to plan an "unauthorised demonstration". He had been arrested at dawn on 24 June 2010 - the first day that presidential candidates could register for the elections – and held in pre-trial detention.<sup>26</sup>

On 14 July 2010, André Kagwa Rwisereka, vice president of the Green Party was found dead in Butare, having been beheaded. No-one has been brought to justice for his murder. Although the police opened investigations, the prosecution claimed to have insufficient evidence to press charges.<sup>27</sup>

Jean Damascene Habarugira, a local representative of FDU-Inkingi, who lived in Remera sector, Ngoma district was killed in May 2017. He went missing after being called to meet a military reservist responsible for village security. The FDU-Inkingi stated in a press release that his family were called to collect his body from Nyamata Hospital in Bugesera a few days later on 8 May. In comments to the media, the police spokesperson confirmed that his body had been found and that investigations were underway.<sup>28</sup>

Aspiring presidential candidates faced restrictions in the lead-up to the August 2017 presidential election. On 3 May 2017, Diane Rwigara announced her intention to stand as an independent candidate for the presidency. A few days later nude photos were leaked and circulated on social media, in what many considered an attempt to smear her reputation. On 1 June 2017, she told reporters that several of her representatives had been arrested and threatened with treason charges, but later released. She complained to police and the National Electoral Commission that her representatives were intimidated as they travelled around the country collecting the signatures required to stand as an independent

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<sup>25</sup> Amnesty International, *Amnesty International Report 2014/15: The State of the World's Human Rights*, 25 February 2015, <https://www.amnesty.org/en/latest/research/2015/02/annual-report-201415/>

<sup>26</sup> Amnesty International, Rwanda: Opposition Politician Jailed for Exercising Rights, 11 February 2011, <https://www.amnesty.org/en/press-releases/2011/02/rwanda-opposition-politician-jailed-exercising-rights/>

<sup>27</sup> Amnesty International, Pre-election attacks on Rwandan politicians and journalists condemned, 5 August 2010, <https://www.amnesty.org/en/latest/news/2010/08/pre-election-attacks-rwandan-politicians-and-journalists-condemned/>

<sup>28</sup> FDU-Inkingi, 'Rwanda: Assassination of Mr. Damascène Habarugira, Member of the FDU-Inkingi', 9 May 2017, [www.fdu-rwanda.com/en/english-rwanda-assassination-mr-damascene-habarugira-member-of-the-fdu-inkingi/](http://www.fdu-rwanda.com/en/english-rwanda-assassination-mr-damascene-habarugira-member-of-the-fdu-inkingi/); New Vision/AFP, 'Opposition member 'assassinated' in Rwanda', 11 May 2017, [www.newvision.co.ug/new\\_vision/news/1453112/opposition-assassinated-rwanda](http://www.newvision.co.ug/new_vision/news/1453112/opposition-assassinated-rwanda)

candidate.<sup>29</sup>

Diane Rwigara was reported to have been arrested with her mother, sister and two brothers from their home in Kigali on 29 August 2017.<sup>30</sup> Rwanda National Police confirmed in messages posted on Twitter on 30 August that a search had been carried out at the family residence as part of preliminary investigations into forgery and tax evasion, but said that Diane Rwigara had not been arrested. At the time of writing, the location and status of Diane Rwigara and her family members were unknown. The family's tobacco company is accused of not paying taxes for a five-year period. Her candidacy to stand for the Presidency was rejected by the National Electoral Commission on the grounds that she had submitted forgeries and signatures of dead voters.<sup>31</sup> Diane Rwigara rejected these allegations.

Another independent candidate, Philippe Mpayimana, complained of intimidation and harassment of his representatives by local authorities and members of the public, and asserted that several lists of signatures had been stolen in Kamonyi and Rusizi districts.<sup>32</sup>

#### RECOMMENDATIONS TO THE RWANDAN AUTHORITIES:

- Allow NGOs to manage their internal affairs free from unwarranted interference;
- Undertake thorough, independent and impartial investigations into reports of intimidation and harassment of human rights defenders and political opposition members, and bring to justice those suspected to be responsible where there is sufficient admissible evidence;
- Establish an independent judicial investigative mechanism to look into previous cases of serious human rights violations and abuses against opposition members, journalists and human rights defenders, including the murder of Andre Kagwa Rwisereka and Jean Damascene Habarugira; Remove any administrative obstacles to the registration and functioning of opposition political parties;
- Adopt specific legislative measures to recognize the status of human rights defenders, and protect their rights and the rights of their colleagues and family members, in line with the African Commission's Resolution 376 (LX) 2017 on the Situation of Human Rights Defenders in Africa;
- Streamline and simplify the registration process for national and international NGOs.

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<sup>29</sup> *The East African*, 'Rwanda independent candidates allege harassment', 5 June 2017, [www.theeastafrican.co.ke/news/Rwanda-independent-candidates-allege-govt-harassment--/2558-3956496-10cqiaiz/index.html](http://www.theeastafrican.co.ke/news/Rwanda-independent-candidates-allege-govt-harassment--/2558-3956496-10cqiaiz/index.html)

<sup>30</sup> Amnesty International interview with family member, August 2017

<sup>31</sup> National Electoral Commission, Statement on the final list of Presidential Candidates in the Presidential Elections of 3rd and 4th August 2017, [http://nec.gov.rw/uploads/media/Statement\\_on\\_Final\\_List\\_of\\_Presidential\\_Candidates.pdf](http://nec.gov.rw/uploads/media/Statement_on_Final_List_of_Presidential_Candidates.pdf)

<sup>32</sup> *The East African*, 'Rwanda independent candidates allege harassment', 5 June 2017, [www.theeastafrican.co.ke/news/Rwanda-independent-candidates-allege-govt-harassment--/2558-3956496-10cqiaiz/index.html](http://www.theeastafrican.co.ke/news/Rwanda-independent-candidates-allege-govt-harassment--/2558-3956496-10cqiaiz/index.html)

