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Rwanda: Ensure fair trial for former presidential aspirant

Following the opening of the trial of the former presidential aspirant Diane Rwigara and her mother Adeline Rwigara in Kigali today, Amnesty International calls on the Rwandan authorities to ensure that their right to a fair trial is fully guaranteed and that they are not convicted for the legitimate exercise of their right to freedom of expression.

Diane and Adeline Rwigara, as well as four others in absentia, have been charged with "inciting insurrection or trouble among the population". Diane Rwigara was also charged with "forging or alteration of documents" and "use of counterfeited documents", and Adeline Rwigara faces an additional charge of "discrimination and sectarian practices."

The next hearing has been scheduled for 24 July 2018 to allow the Prosecution to issue summons for the co-accused Tabitha Gwiza, Xavérine Mukangarambe, Edmond Mushayisha and Jean Paul Turayishimiye, who all reside abroad.

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 7 July 2017. She was accused of submitting forged signatures. Police interrogated Diane Rwigara and her relatives at their home in Kigali on 29 August 2017 and prevented them from leaving their house. For several weeks, the family was questioned by police and their movement restricted. On 23 September, the police arrested Diane and Adeline Rwigara, and Diane's sister Anne. While Anne Rwigara was released on 23 October and the charges against her dropped, Diane and Adeline Rwigara remained 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 14 July 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."¹

¹ The East African, "Rwigara Accuses Court of Lacking Autonomy," 19 November 2017, www.theeastafrican.co.ke/news/ea/Rwigara-Rwanda-court-lack-autonomy/4552908-4192414-format-xhtml-51778qz/index.html

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 16 October 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.

Adeline Rwigara is charged with "inciting insurrection or trouble among the population", along with her sister Tabitha Gwiza, Xavérine Mukangarambe, Edmond Mushayisha and Jean Paul Turayishimiye. Adeline Rwigara is also charged with "discrimination and sectarian practices." 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 are 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.

Rwanda has introduced laws criminalising 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 criminalise criticism of the government, such as in the case of Victoire Ingabire – president of the unregistered political opposition party the Unified Democratic Forces (FDU). She was convicted on a similar charge of incitement by the Supreme Court in 2013.

However, 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."²

Amnesty International urges the Rwandan authorities to ensure that the right to freedom of expression is protected in Rwanda for all persons.

Background

Diane Rwigara's father and Adeline Rwigara's husband, Assinapol Rwigara was a successful businessman and important financier of the ruling party RPF (Rwanda Patriotic Front) in the early 1990s. He died in a car

² African Court on Human and Peoples' Rights, Judgment in the Matter of Ingabire Victoire Umuhoza v. Republic of Rwanda, 24 November 2017, www.african-court.org/en/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhoza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf

accident in February 2015 that the family and others believe to have been orchestrated. In the months before declaring her candidacy on 3 May 2017, Diane Rwigara had been outspoken about issues such as poverty, injustice, insecurity and the lack of freedom of expression in Rwanda. Just days after she announced her intention to stand, nude photos purportedly of her were circulated on social media, in what many considered an attempt to smear her reputation. Diane Rwigara said that the images were photo-shopped.

On 29 August 2017, police interrogated Diane Rwigara and her family members and conducted a search at their home in Kigali. The police confiscated money, phones, computers, and documents. The next day, as reports began to circulate that the family had been arrested or disappeared, the police confirmed that an investigation was under way on the grounds of tax evasion and forgery, but that the family was not in detention. On 4 September 2017, police forced their way into the Rwigaras' house and took the family in for questioning. The police spokesperson, Theos Badege, said that the police obtained a warrant to enter the residence after Diane, Anne and Adeline Rwigara had failed to respond to multiple summons.

Diane, Adeline and Anne Rwigara were questioned for several weeks by police and taken to the Criminal Investigations Division most days for around 16 hours a day. They were effectively under house arrest, with their movement restricted and unable to communicate freely.

On 23 September, Diane, Adeline and Anne Rwigara were officially arrested. On 3 October, the Public Prosecutor confirmed that all three were being charged with "inciting insurrection or trouble among the population". In addition Diane Rwigara was charged with using counterfeit documents and her mother was charged with discrimination and sectarian practices. Anne Rwigara was released on 23 October and the charges against her dropped, while her mother and sister remained in pre-trial detention.