

## RWANDA: CASES FOR APPEALS

### *Introduction*

*On 6 April 1994 an aircraft carrying President Juvénal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi crashed into the gardens of the Presidency in Kigali, Rwanda's capital. Shortly afterwards, members of the Presidential Guard, the National Gendarmerie and militia units known as "interahamwe"<sup>1</sup> began to execute people known or suspected of supporting a broad-based transitional government. By early July, it was estimated that at least 500,000 people, most of them members of the minority Tutsi ethnic group, had been killed in countrywide massacres. One year after an estimated one million people were killed in the genocide, the victims and their relatives are still waiting for those responsible to be brought to justice. Victims of human rights abuses who have so far been denied justice include the thousands of people who have been killed or arbitrarily arrested and unlawfully detained since July 1994 when the new government came to power. Political will and resources to ensure that all those who bear criminal responsibility are brought to justice remain inadequate.*

*By mid-August 1994 the Rwandese Government said it was holding some 800 suspected perpetrators of the genocide. This number had dramatically increased to about 10,000 by mid-November and currently stands at more than 23,000. There*

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<sup>1</sup> The militia units were created by Hutu-dominated political parties loyal to President Habyarimana. "Interahamwe" translates approximately in English to "those who attack together"

are credible reports that up to 100 persons are being arrested daily. In some prisons, prisoners, including women and children, are crowded into open air prison compounds. There is reason to believe that with such mass arrests, many of the detainees are likely to be innocent or outright prisoners of conscience, held for their known or suspected non-violent opposition to the new government. Yet, with a near non-existent judiciary, it is unlikely that they will be brought to trial in the near future. More worrying is the plight of detainees held in private houses and other ungazetted places of detention, whose numbers are not included in the 23,000. Amnesty International fears that these are likely to be subjected to torture, execution and "disappearance".

It is evident that the Rwandese judiciary does not have the capacity to investigate or try those suspected of human rights abuses and other crimes which have been committed in Rwanda. Although steps have been taken to set up the International Tribunal for Rwanda, this is not expected to try more than 20 suspects per year and only 50 in total. Hence, the vast majority of cases will have to be investigated and prosecuted by the Rwandese judicial system. However, the Rwandese judicial system will be unable to cope. Soon people are likely to despair of the law and the current revenge killings are likely to increase. Unless substantial human and material resources are urgently made available to it. Only about 200 of the 800 magistrates employed by the Rwandese Government before April 1994 have been identified. Only about five per cent of these have any formal legal training. There are only about 12 prosecutors in the whole country, and only 36 criminal

investigators<sup>2</sup> out of 360 previously employed by the Rwandese Government.

At the end of 1994 the Rwandese Government set up a committee to "screen" detainees and release those held unjustifiably. It is composed of the Procurator General and the heads of military and civilian intelligence, and the head of the Gendarmerie. Amnesty International is concerned that three members of the committee overseeing cases of civilians belong to the security forces, whose impartiality and independence is questionable. They are likely not to release opponents of the government or government policy even when they are non-violent. In recent months members of the security forces have prevented the release of or rearrested detainees whom judicial officials had determined were unlawfully held. There have been reports that the committee is mostly concerned about cases of prominent persons whose continued unlawful detention is an embarrassment to the government. The committee was reported to have ordered the release of only six detainees between October 1994 and March 1995. The organization is concerned that other less well-known detainees, or those held outside Kigali central prison, may continue to be held unlawfully for long periods.

There is severe overcrowding in prisons, leading to poor health and even deaths. It was recently reported that up to seven or more detainees were dying daily in Kigali prison. Kigali prison currently holds 5,162. It was designed to hold 1,500. Butare prison has a capacity of 1,500, but currently holds 4,122, including 85

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<sup>2</sup>Officiers de police judiciaire (OPJ)

women, 35 minors and around 22 infants (with their mothers). Some detainees are held in gazetted prisons, but others are held in private houses, lock-ups and military barracks where humanitarian agencies such as the International Committee of the Red Cross (ICRC) have no access. Detainees have generally little food, and medical care is inadequate and sporadic. The authorities have to depend on non-governmental organisations and inter-governmental organisations to provide food, medical care and other amenities, for the increasing prison population.

With the collapse of the judicial system these people may languish in prison for a long time. Some have been tortured or suffer appalling conditions of detention which amount to cruel, inhuman or degrading treatment. In addition to the long-term rebuilding of the judicial system, Amnesty International believes that short to medium term solutions must be found to restart judicial functions which could help to ensure that no one is arbitrarily detained or tortured or suffers cruel, inhuman or degrading treatment or punishment.

## Appeals case 1

**JOSEPH MVUKIYUMWAMI** was a research botanist with the National Institute of Scientific and Technological Research and the National Herbarium of Rwanda. He lived with his wife in Butare, southwestern Rwanda until the war between April and July 1994 forced him to flee with his family to Gisakuru, a small village on the west side of Nyungwe Forest Reserve, southwestern Rwanda.

During the massacres between April and July 1994 the Rwandese authorities called on all Hutu to "defend themselves" with weapons. Persons such as Joseph Mvukiyumwami who held positions of responsibility were reportedly routinely given firearms and ammunition to fight combatants and supporters of the rebel Rwandese Patriotic Front (RPF). Joseph Mvukiyumwami was given a gun and ammunition and ordered to distribute bullets to those taking part in the fighting. He reportedly never used the gun but kept it to scare away "Interahamwe" who were threatening his Tutsi students and his wife (also a Tutsi). On 6 September 1994 he was arrested by members of the Rwandese Patriotic Army (RPA) who had searched his house and found the gun and concluded that he had participated in the genocide.

Joseph Mvukiyumwami is currently held in Butare prison where he is in good health and can see his family once a week for a very short time. Although, there may have been grounds to arrest

*and interrogate Joseph Mvukiyumwami on his possession of a gun and ammunition, there are credible reports that he never used it against anyone. On the contrary he reportedly used it to defend innocent civilians. However, although he has been in custody for more than six months, Joseph Mvukiyumwami has not been given the opportunity to explain his case before an independent and impartial judicial official. His continued detention is a violation of his right to have his case examined by a judicial official and be either brought to trial or released.*

### **Recommended actions:**

A. Write a letter to your government explaining that Joseph Mvukiyumwami and thousands of others are held in detention in Rwanda without charge or trial. Explain that you are urging the Rwandese authorities to give them the opportunity to challenge the legal basis for their detention. Urge your government to:

- Aid the Rwandese Government to urgently set up, with the assistance of the international community, particularly the United Nations, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant the continued detention of each detainee. The commission should have branches in every prefecture so as to speed up the screening process.
- Begin urgent consultations with the Rwandese government and arrange to send appropriate personnel including prosecutors, defence lawyers, judges and prison administrators to work in Rwanda for specified periods to fill the empty places in the judicial system and help it begin to operate again in the short term. On 24 February 1995 the Rwandese transitional national assembly passed a law allowing foreign judicial experts to work in Rwanda. Such people will need to have an understanding of similar legal and judicial systems, be ready to work with the Rwandese Government and speak French and, where possible other languages such as Kinyarwanda and Kiswahili.

- *Aid the Rwandese Government in developing a system for international supervision of these interim measures which would be accepted by the Rwandese government, yet ensure that the highest human rights standards are implemented.*

*B. Write to the Rwandese Government via the Embassy in your country (if you have one) citing the case of Joseph Mvukiyumwami and urging the government to:*

- *Urgently set up, an independent and impartial commission to examine the case of Joseph Mvukiyumwami and the thousands of other detainees and determine whether there are sufficient grounds to warrant continued detention of each detainee.*



## Appeal case no.2

**GRATIEN RUHORAHOZA** was the President of Kigali High Court before his arrest on Sunday 10 October 1994. He lived in Kigali with his wife and their six children under the age of 13. He was forcibly arrested at his home at 8 o'clock in the evening by three military personnel. He has not been seen since and it is feared that he has "disappeared".

Immediately prior to his arrest he was involved in processing dossiers for detainees held in Kigali central prison. He had drawn up a list of 80 prisoners to be released on the grounds that there was not enough evidence to detain them any longer on charges of participation in the genocide. A small number of these prisoners were released on 8 October, two days prior to his arrest. It is not known if any of the others have yet been released but it seems unlikely. Gratien Ruhorahoza's action in carrying out his official duties as a magistrate appears to have caused him to come into conflict with the military authorities. He is not held in a civilian prison but possibly in a military camp where prisoners are at risk of torture, "disappearance" or extrajudicial execution.

**Recommended actions:**

A. Write a letter to your government explaining the case of Gratién Ruhorahoza and saying that you are calling on the Rwandese government to reveal his whereabouts and either charge him with a recognizably criminal offence or else release him. Urge your government to:

- Encourage the Rwandese government to introduce safeguards to protect the rights of detainees. To ensure that detainees are registered and that their families are informed of their whereabouts at all times.
- Begin urgent consultations with the Rwandese government and arrange to send appropriate personnel including prosecutors, defence lawyers, judges and prison administrators to work in Rwanda for specified periods to fill the empty places in the judicial system and help it begin to operate again in the short term. On 24 February 1995 the Rwandese transitional national assembly passed a law allowing foreign judicial experts to work in Rwanda. Such people will need to have an understanding of similar legal and judicial systems, be ready to work with the Rwandese Government and speak French and, where possible other languages such as Kinyarwanda and Kiswahili.
- Aid the Rwandese Government in developing a system for

*international supervision of these interim measures which would be accepted by the Rwandese government, yet ensure that the highest human rights standards are implemented.*

*B. Write to the Rwandese Government via the Embassy in your country (if you have one) citing the case of Gratién Ruhorahoza and urging the government to:*

- Reveal the whereabouts of Ruhorahoza and the reasons for his arrest. Urge that he be released if he is not to be charged with a recognizably criminal offence.*
- Investigate the "disappearance" of Ruhorahoza and bring those responsible to justice.*
- Urgently set up procedures to protect the rights of detainees. Ensure that detainees are registered and that their families are informed of their whereabouts at all times.*

Appeal case no.3

*JOSEPHINE MUKASHARANGABO, a wife and mother of four young children, was arrested on 31 July 1994 in Kicukiro, a suburb of Kigali. She has been accused of participating in the genocide. She denies the accusation and says that she and her family were harassed and at risk of being killed by former government supporters during the war between April and July 1994. She was briefly held in a police station before being moved to Kigali central prison where she is currently being held. AI has received frequent reports of torture and there are strong indications that its use in police stations in Rwanda is widespread. She is being held with 300 other prisoners in an area designed for 70 and is looking after her youngest son to whom she gave birth in prison in February.*

**Recommended actions:**

A. Write a letter to your government explaining that Joséphine Mukasharangabo and thousands of others are held in detention in Rwanda without charge and may have no knowledge of the basis for their arrest and detention. Explain that you are urging the Rwandese authorities to give them the opportunity to challenge the legal basis for their detention. Urge your government to:

- Aid the Rwandese Government to set up urgently, with the assistance of the international community, particularly the United Nations, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant the continued detention of each detainee. The commission should have branches in every prefecture so as to speed up the screening process.
- Begin urgent consultations with the Rwandese government and arrange to send appropriate personnel including prosecutors, defence lawyers, judges and prison administrators to work in Rwanda for specified periods to fill the empty places in the judicial system and help it begin to operate again in the short term. On 24 February 1995 the Rwandese transitional national assembly passed a law allowing foreign judicial experts to work in Rwanda. Such people will need to have an understanding of similar legal and judicial systems, be ready to work with the Rwandese Government and speak French and,

where possible other languages such as Kinyarwanda and Kiswahili.

- Aid the Rwandese Government in developing a system for international supervision of these interim measures which would be accepted by the Rwandese government, yet ensure that the highest human rights standards are implemented.

B. Write to the Rwandese Government via the Embassy in your country (if you have one) citing the case of Joséphine Mukasharangabo and urging the government to:

- Urgently set up, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant continued detention of each detainee.

#### Appeal case no.4

**JOSEPHINE MUKANYANGEZI**, a widow with two young children, was a judge in Kigali. She was arrested in Gikondo, Kigali, on 5 September 1994 by two members of the armed forces who she claims had no judicial documents ordering her arrest.

One of the arresting officers told her that his relatives had been killed by her brother. They accused her of being in charge of militia groups responsible for killing Tutsi families during the genocide. She was taken to a house in which one of the officers had taken up residence (one of the many homes occupied by members of the armed forces and others after the owners fled the fighting during the war). She was locked up with her two children in a pit latrine for three days and nights. A leaking car battery was being stored in the latrine. She and her children were forced to sit in the battery acid which covered the floor of the latrine. She has burn scars on her legs as a result. She was denied food and water and was badly beaten. She is currently held in Kigali central prison and has not been charged. She is able to have a short visit with her family once a week. She believes she is being held on account of her profession as a magistrate. Her children are being looked after by a friend, her mother is also in prison and her father died in custody in January 1995. Her brothers are in exile.

### **Recommended actions:**

A. Write a letter to your government explaining that Joséphine Mukanyangezi and thousands of others are held in detention in Rwanda without charge and may have no knowledge of the basis for their arrest. Explain that you are urging the Rwandese authorities to give them the opportunity to challenge the legal basis for their detention. Urge your government to:

- Express concern at reports that Joséphine Mukanyangezi was subjected to beatings and other cruel, inhuman or degrading treatment, including sitting with her children in battery acid. Demand that an independent and impartial investigation be set up to investigate the severe ill-treatment of Joséphine Mukanyangezi and her children and for those found responsible to be brought to justice.
- Aid the Rwandese Government to set up urgently, with the assistance of the international community, particularly the United Nations, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant the continued detention of each detainee. The commission should have branches in every prefecture so as to speed up the screening process.
- Begin urgent consultations with the Rwandese government and arrange to send appropriate personnel including prosecutors, defence lawyers, judges and prison administrators to work in



Rwanda for specified periods to fill the empty places in the judicial system and help it begin to operate again in the short term. On 24 February 1995 the Rwandese transitional national assembly passed a law allowing foreign judicial experts to work in Rwanda. Such people will need to have an understanding of similar legal and judicial systems, be ready to work with the Rwandese Government and speak French and, where possible other languages such as Kinyarwanda and Kiswahili.

B. Write to the Rwandese Government via the Embassy in your country (if you have one) citing the case of Joséphine Mukanyangezi and urging the government to:

- Urgently set up, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant continued detention of each detainee.

Appeal case no.5

**BERNADETTE MUKARUSINE**, 35 years old, and **MARIE MUKANYANGEZI**, 54 years old, both nuns, were arrested in late September 1994 by members of the armed forces. They lived in a convent in Shyrongi in Nyamashike parish, Cyangugu prefecture, and were evacuated in April 1994 when fighting broke out. They returned there in September to assess the damage to their buildings which had been bombed. Bernadette Mukarusine was arrested on 23 September at Shyrongi and Marie Mukanyangezi was arrested on her return to Kigali the following day. The members of the armed forces who arrested them had no warrant for their arrest. They held the nuns for two weeks at the police station in Remera, a suburb of Kigali. The two women were finally taken before the assistant Public Prosecutor of Kigali in October and accused of refusing sanctuary to two young children during the fighting and failing to look after the sick during the war. The nuns claim that one of the children they are accused of turning away from the convent and who was later allegedly beaten to death was reunited with them the day before their arrest.

They were transferred from a house in Kabuye and are currently held in Kigali central prison. Their convent in Shyrongi is currently occupied by a family which returned recently to Rwanda. The sisters believe that the charges against them have originated from this family in order that they may remain in residence. Sister Marie Mukanyangezi has a chronic heart

*condition for which her parishioners supply her with medication.  
She has no access to a doctor.*

**Recommended actions:**

A. Write a letter to your government explaining that Bernadette Mukarusine and Marie Mukanyangezi and thousands of others are held in detention in Rwanda without charge and may have no knowledge of the basis for their arrest. Explain that you are urging the Rwandese authorities to give them the opportunity to challenge the legal basis for their detention. Urge your government to:

- Aid the Rwandese Government to set up urgently, with the assistance of the international community, particularly the United Nations, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant the continued detention of each detainee including Bernadette Mukarusine and Marie Mukanyangezi. The commission should have branches in every prefecture so as to speed up the screening process.
- Begin urgent consultations with the Rwandese government and arrange to send appropriate personnel including prosecutors, defence lawyers, judges and prison administrators to work in Rwanda for specified periods to fill the empty places in the judicial system and help it begin to operate again in the short term. Such people will need to have an understanding of similar legal and judicial systems, be ready to work with the Rwandese Government and speak French and, where possible other

languages such as Kinyarwanda and Kiswahili.

- Aid the Rwandese Government in developing a system for international supervision of these interim measures which would be accepted by the Rwandese government, yet ensure that the highest human rights standards are implemented.

B. Write to the Rwandese Government via the Embassy in your country (if you have one) citing the case of Bernadette Mukarusine and Marie Mukanyangezi and urging the government to:

- Urgently set up, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant continued detention of each detainee.

### Appeal case no.6

**AUGUSTIN MINANI**, a 12-year-old boy was arrested with five other boys by members of the armed forces in September 1994. They were arrested in their district (commune) of Ntyazo, Butare prefecture and held in a hut by the district administrator (bourgemestre) where they were badly beaten. One month later the other boys were removed from the hut. Augustin Minani believes that they were released, but he does not know their fate.

He remained alone in the hut for a further three months. He was informed by the soldiers who arrested him that he was being held because his brother was accused of killing Tutsi during the massacres which occurred between April and July 1994. He claimed that before he was moved from the hut in February 1995 he was forced to sign a statement saying that he had killed someone.

He is currently being held in Butare prison where there are over 35 minors held with him. According to Rwandese law the legal minimum age for detention of minors is 14 years old. After the age of 16 it is considered that a child becomes an adult.

Between the ages of 14 and 16, according to law, minors and adults must be separated. Augustin is currently held in the men's quarters. His physical health is good but he is severely traumatised.

**Recommended actions:**

A. Write a letter to your government explaining that Augustin Minani and hundreds of other minors are held in detention in Rwanda without charge and no knowledge of the basis for their arrest. Express concern that they are being held without any legal counsel in prisons where they live with adults in violation of international standards. Explain that you are urging the Rwandese government to urgently review the current detention of minors in Rwanda in light of the Convention of the Rights of the Child which Rwanda ratified in January 1991. Urge your government to:

- Aid the Rwandese Government in urgently setting up, with the assistance of the international community, particularly the United Nations, an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant the continued detention of each detainee. The commission should have branches in every prefecture so as to speed up the screening process.
- Begin urgent consultations with the Rwandese government and arrange to send appropriate personnel including prosecutors, defence lawyers, judges and prison administrators to work in Rwanda for specified periods to fill the empty places in the judicial system and help it begin to operate again in the short term. Such people will need to have an understanding of similar legal and judicial systems, be ready to work with the Rwandese

*Government and speak French and, where possible other languages such as Kinyarwanda and Kiswahili.*

- *Aid the Rwandese Government in developing a system for international supervision of these interim measures which would be accepted by the Rwandese government, yet ensure that the highest human rights standards are implemented.*

*B. Write to the Rwandese Government via the Embassy in your country (if you have one) citing the case of Augustin Minani and urging the government to:*

- *Urgently review the current detention of minors in Rwanda in light of the Convention of the Rights of the Child which Rwanda ratified in January 1991. It reaffirms the child's right not to be deprived of his or her liberty unlawfully or arbitrarily and that adult and child prisoners should be separated (qualified by the notion of the child's best interests).*
- *Urgently set up an independent and impartial commission to examine detainee dossiers and determine whether there are sufficient grounds to warrant continued detention of each detainee.*