

**Front Line Rwanda**  
**Disappearances, Arrests, Threats, Intimidation and**  
**Co-option of Human Rights Defenders 2001 - 2004**

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## Preface

Front Line – The International Foundation for the Protection of Human Rights Defenders decided to commission a report on the situation of human rights defenders in Rwanda as a result of the deteriorating situation in the country. During 2004 we had become involved in trying to provide practical assistance for human rights defenders from LIPRODHOR who had been forced to flee the country. We were particularly concerned that there was very limited international reaction to the arbitrary action to close down independent human rights monitoring in Rwanda.

This report would not have been possible without the input, help and advice of many people. It is important firstly to acknowledge the human rights defenders themselves, their families and colleagues, and all those who helped us to bring their stories together in this report.

The project was coordinated by an experienced human rights researcher on Rwanda.

This report was written in part by Chi Mgbako and Bridgette Toy-Cronin under the auspices of the Clinical Advocacy Project of the Harvard Law School Human Rights Program and the Harvard Law Student Advocates for Human Rights, in collaboration with Front Line.

The Clinical Advocacy Project offers students the opportunity for first-hand experience with the vital issues, institutions, and processes of the human rights movement. In addition to work in Cambridge, Massachusetts, students travel regularly with clinical supervisors to document abuses and promote respect for the rule of law. The Project works closely with human rights organisations throughout the world, providing *pro bono* services for the promotion of the rule of law and respect for human rights. Its team of faculty and supervisors include experienced human rights practitioners and advocates.

The Harvard Law Student Advocates for Human Rights is a student-run organisation that provides students with the opportunity to engage in human rights research, reporting, and advocacy in partnership with human rights organisations throughout the world. The organisation is comprised of regional initiatives on Africa, the Americas, Asia, Europe and Eurasia, and the United States.

The report is largely based on interviews conducted in Belgium, Rwanda, and Uganda in October 2004. The authors and Front Line would like to thank everyone who provided information for this report, including human rights defenders, civil society members, Rwandan Government officials, Kigali-based diplomats, and representatives of international donors. Most of the people interviewed for this report asked that they and their organisations not be identified in this report, and we have honoured that request.

Front Line would also like to thank Development Cooperation Ireland and Print & Display for their ongoing and generous support.

The report was reviewed by James Mehigan, Natacha O'Brien and Andrew Anderson at Front Line. The views expressed in this Report are those of Front Line and no other organisation.

Front Line dedicates this report to the Rwandan human rights defenders who have risked their lives so that others might enjoy the rights provided by the Universal Declaration of Human Rights.

Front Line  
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## Abbreviations

ADEP-MIZERO	Alliance pour la Démocratie, l'Équité et le Progrès (Alliance for Democracy, Equality and Progress)
ADL	Association Rwandaise pour la Défense des Droits de la Personne et des Libertés Publiques (Rwandan Association for the Defence of Human Rights and Civil Liberties)
AJPRODHO	Youth League for the Promotion and Defence of Human Rights and Development
AMI	Association Modeste et Innocent
ARCT-Ruhuka	Rwandan Association of Trauma Counsellors
ARDES	Rwandan Association for the Development of the Human Sciences
ARDHO	Association Rwandaise pour la Défense des Droits de l'Homme (Association for the Defence of Human Rights)
ARTC	Rwandan Association of Christian Workers
AVEGA	Association of Genocide Widows
AVP	Association des Volontaires de la Paix (Association for Peace Volunteers)
BBC	British Broadcasting Corporation
BAIR	Bureau d'Appui aux Initiatives Rurales (Bureau for Supporting Rural Initiatives)
CARVITORE	African Center for the Rehabilitation of Victims of Torture and Repression
CASOR	Foundation to Aid in the Schooling of Rwandan Orphans
CAT	Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment and Punishment
CAURWA	Communauté des Autochtones Rwandais (Community of Indigenous Peoples of Rwanda)
CECI	Centre Canadien d'Étude et de Coopération Internationale
CESTRAR	Central Union of Rwandan Workers
CCOAIB	The Consultative Council of Organisations to Support Grassroots Initiatives
CLADHO	Collectif des Liges et Associations de Défense des Droits de l'Homme (Federation of Leagues and Associations of Human Rights in Rwanda)
CLECAM	Caisse Locale d'Épargne et de Crédits Agricole et Mutuelle
COODAF	Coopérative de Développement Agriculture, Elevage et Forêt
CPJ	Committee to Protect Journalists

DFID	Department for International Development (UK)
DMI	Directorate of Military Intelligence
DRC	Democratic Republic of Congo
EX-FARS	Ex – Rwandan Armed Forces
FACT	Forum of Activists Against Torture
FOR	Forum of Rural Organisations or Forum des Organisations Rurales
HRW	Human Rights Watch
IBUKA	‘Remember’
IMBARAGA	Syndicat des Agriculteurs et des Eleveurs du Rwanda (Syndicate of Farmers and Ranchers of Rwanda)
ICG	International Crisis Group
ICTR	International Criminal Tribunal for Rwanda
IFES	International Foundation for Election Systems
IMF	International Monetary Fund
INGO	International Non Governmental Organisation
IRIN	United Nations Integrated Regional Information Network
LDGL	League for Human Rights in the Great Lakes Region
LIPRODHOR	Ligue Rwandaise pour la Promotion et la Défense des Droits de l’Homme (Rwandan League for the Promotion and Defence of Human Rights)
MEDSA	Medical Students Association of the National University of Rwanda
MDR	Democratic Republican Movement
MINALOC	Ministry of Local Administration
MONUC	United Nations Observer Mission in Congo
MoU	Memorandum of Understanding
MRND	National Revolutionary Development Movement
NEC	National Election Commission
NGO	Non Governmental Organisation
NHRC	National Human Rights Commission
NOVIB	Oxfam - Netherlands
NPA	Norwegian People’s Aid
ORINFOR	Rwandan Information Office
POER	Program for Observing Elections in Rwanda
PPC	Party for Progress and Harmony
PDR-Ubuyanja	Party for Democracy
PL	Liberal Party
PSD	Social Democratic Party
PRSP	Rwanda’s Poverty Reduction Strategy Paper

RFI	Radio France International
RHRC	Rwandan Human Rights Commission
RIPRODHOR	Réseau International pour la Promotion et la Défense des Droits de l'Homme au Rwanda
ROPARWA	Network of Peasant Organisations in Rwanda
RPF	Rwandan Patriotic Front
RSF	Reporters sans Frontieres
RTL	Radio Télévision Libre des Mille Collines
SDA-IRIBA	Services au Développement des Associations (Services for the Development of Associations)
SIM	Netherlands Institute of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development
VOA	Voice of America



## Executive Summary

Rwanda received considerable attention in late 2004 for its threat to re-invade the Democratic Republic of Congo to defeat Rwandan Hutu rebels linked to the 1994 genocide. Yet, even Rwanda's Special Envoy to the Great Lakes, admitted that the estimated 8,000-15,000 rebels 'no longer constitute an immediate threat to the Government'.<sup>1</sup> Few, however, noted the link between Rwanda's external aggression and its internal repression of civil society actors and human rights defenders accused of promoting a 'genocidal ideology'.

Over the past three years, Rwanda's increasingly authoritarian government has arrested political opponents, stifled independent journalists, targeted human rights defenders, failed to thoroughly investigate disappearances, and narrowed the space for independent civil society. It has justified those actions as necessary to prevent 'ethnic divisionism' and a possible resurgence of genocide. Two months after the tenth commemoration of the genocide in April 2004, a Parliamentary Commission made accusations of genocidal ideology – a highly charged allegation in a country still recovering from the 1994 genocide that killed at least 800,000 people – against several civil society NGOs involved in promoting human rights in the judicial and rural sectors. While the main targets were LIPRODHOR (Rwandan League for the Promotion and Defence of Human Rights or *Ligue rwandaise pour la promotion et la défense des droits de l'Homme*) and FOR (Forum of Rural Organisations or *Forum des organisations rurales*), the Commission also went after the only remaining independent newspaper, churches, schools, and even international development NGOs such as CARE and Trócaire. The Report failed to define 'genocidal ideology'. Instead, it equated human rights monitoring, civic education, rights-based development, and any criticism of Government policy with genocidal ideology. This not only

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<sup>1</sup> International Crisis Group, *Back to the Brink in the Congo*, 17 Dec. 2004, 4, <[http://www.icg.org/library/documents/africa/central\\_africa/041217\\_back\\_to\\_the\\_brink\\_in\\_the\\_congo.pdf](http://www.icg.org/library/documents/africa/central_africa/041217_back_to_the_brink_in_the_congo.pdf)>. According to the ICG report, Rwanda's threat and alleged incursions appeared to be motivated more by a desire to strengthen the Rwanda-backed Rally for Congolese Democracy-Goma, thus preserving Rwanda's sphere of influence in the eastern Congo. Ibid. 4-5. For allegations of the Rwandan military presence in the eastern DRC, see US State Department, *Rwanda: Country Reports on Human Rights Practices – 2004*, (28 Feb. 2005) [hereafter *US State Department Report 2004*], Introduction. For background on Rwandan involvement in the DRC, see Timothy Longman, 'The Complex Reasons for Rwanda's Engagement in Congo', in John F. Clark, (ed.), *The African Stakes of the Congo War*, 2002, 129-144.

trivialises the genocide, it also undermines efforts at long-term reconciliation.

In the wake of the Government report, ten human rights defenders from LIPRODHOR fled the country and its new co-opted leadership issued a public apology to the Government and Rwandan people. The Government called on other organisations harbouring genocidal ideology to engage in similar self-criticism. It also ordered the prosecutor and judiciary to investigate the individuals and organisations named in the report. As a result, those named individuals remain under constant threat of arrest. NGOs close to the Government set up a Civil Society Platform so that civil society will now speak with one (presumably pro-government) voice. The Government also proposed a new law that would restrict the independence and activities of international NGOs.

In its latest human rights report, the US State Department stated:

After the release of the [parliamentary] report, independent human rights organisations were effectively dismantled, and all independent sources on the human rights conditions in the country disappeared in the second half of the year [2004].<sup>2</sup>

The succeeding chapters will examine recent Government repression (Chapter 1), particularly the Parliamentary Commission's accusations, against a wide spectrum of civil society organisations, including human rights NGOs (Chapters 2 and 3), rural associations (Chapter 4), independent journalists (Chapter 5), and international NGOs working on rights-based development and civic education (Chapter 6). The report will conclude by documenting the reluctance of most international donors to defend Rwanda's human rights defenders (Chapter 7).

The United Nations has made clear that human rights defenders deserve special protection because their work is critical for promoting human rights worldwide. On December 9, 1998, on the eve of the fiftieth anniversary of the Universal Declaration of Human Rights, the UN General Assembly approved the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (known as the UN

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<sup>2</sup> *US State Department Report 2004* at section 4.

Declaration on Human Rights Defenders). In April 2000, the UN Commission on Human Rights established the mandate of the Special Representative of the Secretary General on human rights defenders.

Front Line defines a human rights defender broadly as ‘a person who works, non-violently, for any or all the rights enshrined in the Universal Declaration of Human Rights’. This report covers a wide range of human rights defenders, including persons working for human rights NGOs, rural development NGOs, independent media, and international NGOs committed to rights-based development. There are several organisations (such as Haguruka and Pro-Femmes Twese Hamwe) closely allied to the Government who have defended and advanced human rights, particularly with regard to women’s and children’s economic and social rights.<sup>3</sup> We have no intention of disparaging their important work in any way, but they are not the subject of this report. Rather, we have chosen to focus mostly on persons and organisations who have exhibited independence from the Rwandan Government and who, as a consequence, have disappeared or been arrested, intimidated, harassed, or forced into exile.<sup>4</sup>

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<sup>3</sup> For a fuller discussion of Pro-Femmes’ work and Government links, see Jean-Paul Kimonyo, Noel Twagiramungu, and Christopher Kayumba, *Supporting the Post-Genocide Transition in Rwanda: The Role of the International Community*, Working Paper 32, Netherlands Institute of International Relations ‘Clingendael’ Conflict Resolution Unit, December 2004 [hereafter *Clingendael*], 52.

<sup>4</sup> We recognize that it is difficult to characterize any civil society organisation in Rwanda as truly ‘independent’. Such organisations are highly dependent on the Rwandan state, international donors, or, in most cases, some mixture of the two. Nonetheless, some organisations have shown greater independence from the state through their willingness to criticize its human rights violations and/or to encourage non-state-centric, rights-based development.



## **Recommendations**

### **To the Rwandan Government**

1. Guarantee protection for human rights defenders by conforming to the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly on December 9, 1998
2. Take all appropriate measures to guarantee the safety of individuals and civil society organisations named in the Parliamentary Commission Report and the Ministry of Education communiqué
3. Lift the suspension on CAURWA, an indigenous rights organisation
4. Investigate thoroughly abuses committed against human rights defenders, including the disappearances of Leonard Hitimana and August Cyiza in April 2003
5. Release all those detained arbitrarily as a result of the Parliamentary Commission Report and the Ministry of Education communiqué. If there is any evidence against those detained that would justify criminal charges, they should be granted prompt judicial hearings which conform to international standards
6. Guarantee the rights to association, assembly and free expression provided by the 2003 Rwandan Constitution and by the International Covenant on Civil and Political Rights which Rwanda ratified in 1975
7. Revise the law on divisionism and discrimination by narrowly defining those terms to ensure greater tolerance for pluralism and to prevent politically-motivated prosecutions
8. Revise the law on the press and repeal criminal defamation laws to guarantee freedom of expression in line with international standards
9. Revise the 2001 NGO law to create a legal framework for Rwandan and international NGOs in conformity with international standards
10. Return to the negotiating table with the International NGO Network with the agreed-upon draft convention

### **To the International Community**

1. Establish realistic benchmarks or indicators for measuring Rwanda's progress in meeting the goals of good governance and human rights
2. Expand funding for local rights-based development, particularly in the rural sector

3. Focus funding on NGOs engaged in service delivery, rather than civil society collectives, as that will improve efficiency and promote decentralization
4. Act in concert to pressure the Rwandan Government to implement the recommendations listed in the preceding section

## 1. Political and Human Rights Developments in Rwanda, 1994-2004

### I. Introduction

On April 6, 1994, Rwandan President Juvénal Habyarimana was returning from a summit of regional leaders in Tanzania where he had agreed to implement a peace accord with the Rwandan Patriotic Front (RPF), a predominantly Tutsi rebel group that had launched a civil war from Uganda in 1990, when his plane was shot down by unknown assailants. The President's assassination provided an excuse for Hutu Power extremists to launch a planned genocide against the minority Tutsi population and to massacre Hutu opponents. The speed and brutality of the genocide was shocking. Militias, soldiers, and ordinary citizens killed an estimated 800,000 Rwandan men, women, and children in the course of one hundred days. The international community refused to acknowledge that genocide was occurring and drastically reduced the size of the United Nations peacekeeping force, abandoning Rwanda to the *génocidaires*. By mid-July 1994, the RPF had militarily defeated the genocidal Government and halted the genocide. Fearing RPF retaliation, more than a million Hutu civilians, including some *génocidaires*, fled to the eastern Democratic Republic of Congo.<sup>5</sup> Many returned in 1996 after the RPF attacked the refugee camps in Congo.

The civil war, genocide, and massive population movements devastated Rwanda's physical infrastructure and social fabric.<sup>6</sup> Over the past ten years, the RPF-dominated Government has accomplished the extraordinary feat of rebuilding Rwanda, providing security and economic growth. When the RPF installed a transitional government in July 1994, there was some hope it would live up to the promise of power-sharing enshrined in the Arusha Peace Accords. Yet, an initial democratic pluralism has given way to increasingly authoritarian rule. The RPF, with roots in Uganda's Movement system, is ideologically committed to a single-party state and democratic centralism under the guise of multi-party democratization.<sup>7</sup>

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<sup>5</sup> It is estimated the RPF killed between 20,000 and 30,000 mostly Hutu civilians before and during the genocide. See Gerard Prunier (1995), *The Rwandan Crisis: History of a Genocide*, 363-364; Human Rights Watch (1999), *Leave None to Tell the Story: Genocide in Rwanda*, 702-735.

<sup>6</sup> Out of Rwanda's 8.1 million people, approximately 85% are Hutu, 14% are Tutsi, and less than 1% are the indigenous Twa.

<sup>7</sup> A report for USAID's Office of Democracy and Governance stated, 'the principle of democratic centralism is followed in RPF decision-making'. Management Systems International, *Rwandan Democracy and Governance Assessment*, (Nov. 2002). See also International Crisis Group, *Rwanda at the end of the*

The RPF's increasing authoritarianism cannot be explained as a response to threats from the insurgency in northwest Rwanda in the late 1990s and the presence of former genocidal military forces in eastern Congo. Even after the RPF defeated the insurgency and largely withdrew from the Congo in 2002, it increased the repression of political opponents and independent civil society, arguing the need to combat 'ethnic divisionism' and, more recently, 'genocidal ideology'. Similarly, the RPF defends its continuing incursions into eastern Congo as a necessary response to genocidal forces there. There is no denying that unrepentant *génocidaires* still exist, both inside and outside Rwanda, but the RPF has a tendency to exaggerate the threat in order to justify repression and military adventurism. One observer commented that 'the regime benefits from the creation of insecurity' and that 'the insecurity inside and outside is connected'.

## II. Political Repression: 1994-2002

Since 1994, the RPF-dominated Government has accused Hutu political opponents of being '*génocidaires*' or 'divisionists' and Tutsi opponents of being 'monarchists'.<sup>8</sup> While some have been arrested or silenced, more than 40 political opponents have fled into exile.<sup>9</sup> In August 1995, Prime Minister Faustin Twagiramungu, the Hutu leader of the MDR (Democratic Republican Movement), and Interior Minister Seth Sendashonga, one of the few prominent Hutu in the RPF, fled into exile, citing the consolidation of power around the RPF, discrimination against both Hutu and Tutsi, and human rights violations. Sendashonga was subsequently assassinated in Nairobi in 1998. Prime Minister Pierre Celestin Rwigyema from the MDR fled to the United States in 2000, after which the Government accused him of genocide.

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*transition: A necessary political liberalization*, (13 Nov. 2002), 10-11 [hereafter ICG, *Rwanda at the end of the transition*], <[http://www.icg.org/documents/report\\_archive/A400817\\_13112002.pdf](http://www.icg.org/documents/report_archive/A400817_13112002.pdf)>.

<sup>8</sup> The term 'divisionism' is broadly defined in the criminal law as any activity or basis for dividing Rwandans, though it is mostly used in the sense of ethnic divisions. See discussion below and Law No. 47/2001 of 18/12/2001 Instituting Punishment for Offences of Discrimination and Sectarianism, article 3, published in *Journal Officiel* No. 4 of 15/02/2002. The Government appears to have first accused Tutsi political opponents of advocating the return of the king in 1999.

<sup>9</sup> International Crisis Group listed 40 political opponents who fled the country between 1994 and 2002. See ICG, *Rwanda at the End of the Transition*, Appendix B, 28-29. More have fled since then.

## A. Silencing Tutsi Survivors

The RPF's leadership is dominated by the Anglophone Tutsi who grew up in exile in Uganda, and who returned to Rwanda following the genocide. The Ugandan/Rwandan Tutsi have an uneasy relationship with the Francophone Tutsi survivors, who feel politically and economically marginalized. By 2000, Tutsi survivors had become increasingly critical of the RPF for reintegrating suspected *génocidaires* into the Government and military and for failing to follow through with promises of assistance for survivors.<sup>10</sup> The RPF then accused prominent Tutsi politicians of plotting the return of the Tutsi king from exile.

While not a survivor himself, Joseph Sebarenzi, the charismatic Speaker of the National Assembly, linked himself with the political interests of Tutsi genocide survivors. In early 2000, he was charged with corruption and stripped of his parliamentary post. After being labeled a monarchist, he fled to the United States. Valens Kajeguhakwa, a former RPF deputy and Tutsi, also fled after being accused of corruption. The Government arrested genocide survivor and parliamentarian Jean Mbanda on charges of corruption after he publicly criticized the Government. He was finally released from pretrial detention in January 2003 and subsequently left Rwanda.<sup>11</sup>

In 2000, the Government replaced the leadership of IBUKA ('Remember'), the collective of genocide survivor associations. Government soldiers assaulted former IBUKA vice president, Josué Kayijaho on two separate occasions, eventually driving him into exile. Assiel Kabera, Kayijaho's brother and an aide to President Bizimungu, was assassinated. IBUKA's founder, Bosco Rutagengwa, and IBUKA's Secretary-General, Anastase Muramba, also fled the country. The RPF installed Antoine Mugesera, a member of its Central Committee, as the new president of IBUKA.<sup>12</sup> Since 2000, IBUKA has been mostly supportive of Government policies. For example, IBUKA made no public objection when President Kagame ordered

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<sup>10</sup> For example, the Governor of Ruhengeri province, Boniface Rucagu, was a shareholder of the RTLM radio station that incited the genocide and his name figured on the Rwandan Prosecutor General's list of key genocide suspects for several years.

<sup>11</sup> The fact that Mbanda was eventually released without ever facing trial suggests that the accusations of corruption against him were politically motivated.

<sup>12</sup> ICG, *Rwanda at the End of the Transition*, 12-13, 28; Human Rights Watch (2000), *Rwanda: The Search for Security and Human Rights Abuses*, <<http://www.hrw.org/reports/2000/rwanda/>>.

the release of thousands of confessed *génocidaires* in January 2003 without consulting the survivors.<sup>13</sup>

## B. Banning PDR-Ubuyanja

A prime example of the RPF's steady drift toward one-party authoritarian rule was the Government ban on the Party for Democracy (PDR-Ubuyanja) and the arrest of its leadership. Pasteur Bizimungu, a prominent Hutu member of the RPF, resigned in 2000 as president after nearly six years in office. A year later, Bizimungu and former Minister Charles Ntakirutinka created a new political party, PDR-Ubuyanja, which was almost immediately banned. A founding party member, Gratien Munyarubuga, was assassinated at mid-day in Kigali in December 2001. No one has ever been arrested for that crime.

During the genocide commemoration in April 2002, President Kagame warned Bizimungu that the international community would not be able to protect him. Three weeks later, the Government arrested Bizimungu and Ntakirutinka and charged them with endangering state security, fostering ethnic divisions, and engaging in illegal political activities. Over the next several weeks, approximately twenty persons were arrested for allegedly supporting PDR-Ubuyanja. Six of them, including the treasurer of the human rights NGO LIPRODHOR and a Rwandan employee of the US Embassy, were later joined to the case against Bizimungu and Ntakirutinka.<sup>14</sup>

The trial started in earnest in April 2004, almost exactly two years after Bizimungu's and Ntakirutinka's arrests. Several of the prosecution witnesses against Bizimungu and Ntakirutinka provided contradictory evidence and two testified that their evidence had been coerced. The prosecution case against the six alleged accomplices rested on the inconsistent and uncorroborated testimony of a single witness, whose evidence was refuted

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<sup>13</sup> As a result of the President's directive, approximately 16,000 detained *génocidaires*, who had confessed their crimes and had already served the maximum sentence for such crimes in pre-trial detention, were provisionally released and reintegrated into their communities. In theory, those detainees will still be tried in *gacaca*, the local community courts set up to try genocide suspects. If convicted of crimes to which they did not confess, they will have to return to prison. African Rights, an international NGO that works closely with Rwandan survivor organisations, protested the releases even though their local partners remained silent. See African Rights, *Prisoner Releases: A Risk for the Gacaca System*, 16 Jan. 2003, <<http://www.mail-archive.com/pambazuka-news@pambazuka.org/msg00001.html>>.

<sup>14</sup> ICG, *Rwanda at the End of the Transition*, Appendix C, 30-31.

by seven defence witnesses. On June 7, 2004, the court convicted Bizimungu of inciting civil disobedience, creating a criminal gang, and embezzling state funds. The judges sentenced Bizimungu to fifteen years, Ntakirutinka to ten years, and the six alleged accomplices to five years apiece.

### C. An Early Salvo Against Civil Society: Banning AMI

In January 2002, police arrested Laurien Ntezimana and Didace Muremangingo, the founders of *Association Modeste et Innocent* (AMI), and charged them with attacking the security of the state for publishing the word ‘ubuyanja’ (‘spiritual renewal’) – which also forms part of the name of former President Bizimungu’s banned political party, PDR-Ubuyanja – in the masthead of their journal *Ubuntu*. Ntezimana is a respected lay theologian and past recipient of the Pax Christi Award, who has worked for reconciliation between Hutu and Tutsi before and after the genocide. AMI, which was founded in 2000, did trainings for parishes and schools on reconciliation using a mix of Catholic teachings and eastern religion (particularly Tai Chi) – what Ntezimana has termed the concept of ‘bonne puissance’ (good power). AMI appears to have been targeted by the state authorities for two reasons. First, Ntezimana’s success in raising funds from foreign donors had engendered envy and resentment from the Butare Catholic Church. Second, as several observers noted, the RPF mistrusts any sensitization or trainings of the population that it does not control.

Both Ntezimana and Muremangingo, a Tutsi survivor, were detained for a month in Butare Central Prison, where the majority of inmates are accused *génocidaires*. Although an appeals court provisionally released them in February 2002, Butare’s governor banned AMI and *Ubuntu* – even though the 2002 NGO law made clear that NGO activities can only be suspended by the Minister of Justice.<sup>15</sup> In addition, the Ministry of Local Administration refused to grant AMI legal registration as an NGO. Several Government officials justified the repression against AMI, including the vice-president of the National Human Rights Commission who stated that Ntezimana had influenced twenty people ‘who could pose a threat to the state’.<sup>16</sup> The police spokesperson, Tony Kuramba, compared *Ubuntu* to *Kangura* and RTLM Radio, the hate media that incited the genocide.

<sup>15</sup> Law No. 20/2000 of 26/07/2000 Relating to Non-Profit Making Organisations, article 24.

<sup>16</sup> Human Rights Watch, *Preparing for Elections: Tightening Control in the Name of Unity*, 8 May 2003, 13, <<http://www.hrw.org/background/africa/rwanda0503bck.pdf>>.

Finally, in 2004, the Butare authorities permitted AMI to recommence its activities (on condition it not engage in divisionism) after the intervention of the new Government ombudsman. Ntezimana no longer runs AMI, but rather works occasionally for the organisation as an independent consultant. Muremangingo and one other member of AMI moved to Belgium, where they started another NGO dedicated to teaching reconciliation.

### **III. The Supposed Democratic Transition of 2003**

Democratization is not simply a matter of multi-partyism or elections; it also encompasses freedom of expression and association, the rule of law, press freedom, and independent civil society. On all fronts, Rwanda went backwards in 2003. In the middle of that year, Peter Uvin, a noted development consultant on Rwanda, concluded, ‘this year of so-called democratization has seen an actual reduction in political space’.<sup>17</sup> He continued:

...[W]hat Rwanda is currently going through is not a process of democratization as much as a formal election painted on top of an increasingly totalitarian state. The closing off of all political space, the maintenance of a climate of fear, the intimidations and disappearances of potentially critical voices, the banning of the sole opposition party with some possible popular grounding, the attacks on key civil society organisations and the further muzzling of the press – all point to the undeniable fact that there is, in 2003, no free choice in Rwanda.<sup>18</sup>

#### **A. Divisionism and the Dismantling of the MDR Party**

In February 2002, a criminal law took effect that punishes ‘divisionism’ and discrimination with prison sentences ranging from three months to five years. Divisionism is broadly defined as occurring ‘when the author makes use of any speech, written statement or action that causes conflict that causes an uprising that may degenerate into strife among people [*sic*]’.<sup>19</sup> Similarly, the 2003 Constitution adopted a vague prohibition on divisionism:

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<sup>17</sup> Peter Uvin (2003), *Wake Up! Some Policy Proposals for the International Community in Rwanda*, 1.

<sup>18</sup> *Ibid.*

<sup>19</sup> Law No. 47/2001 of 18/12/2001 Instituting Punishment for Offences of Discrimination and Sectarianism, article 3, published in *Journal Officiel* No. 4 of 15/02/2002.

‘Propagation of ethnic, regional, racial, or discrimination or any other form of division is punishable by law.’<sup>20</sup> The Constitution also criminalizes ‘[r]evisionism, negationism and trivialisation of genocide’ without defining those terms.<sup>21</sup> The overbroad definition of divisionism in the 2002 criminal law and Constitution provide enormous discretion to prosecutors and inadequate guidance for an already politicized judiciary. Since early 2002, the Government has used the law on divisionism to manipulate issues of ethnicity for political advantage, labeling both Hutu and Tutsi politicians outside the RPF as ‘divisionists’.

In January 2002, the Government arrested Pierre Gakwandi, secretary-general of the MDR, charging him with inciting ethnic divisions and defaming the Government in a press interview where he blamed the RPF for creating internal divisions within the MDR.<sup>22</sup> As of March 2005, Gakwandi is still in detention awaiting trial. In March 2003, a parliamentary commission accused the MDR of fomenting ethnic divisions and promoting genocidal ideology and called on the Government to ban it. At the time, the MDR was the only political party that might have been able to challenge the RPF in the elections. The report alleged that 46 named individuals and several organisations had participated in clandestine meetings to promote ethnic divisions, but the report failed to adduce any concrete evidence.<sup>23</sup> Parliament voted overwhelmingly to ban the MDR, and the Cabinet approved that decision. Although no court ever ordered the disbanding of the MDR, the party ceased to exist. Having been named in the report, the former Minister of Defence and the army’s parliamentary representative fled the country. As the EU election observer mission observed in mid-2003, ‘Such a campaign against divisionism can, however, become a witch hunt’.<sup>24</sup>

## B. Disappearances

In April 2003, five individuals disappeared, including Dr. Leonard Hitimana, an MDR parliamentarian named in the report as a leading proponent of genocidal ideology. That charge was particularly baseless: only a few

<sup>20</sup> The Constitution of the Republic of Rwanda, Article 33 (June 4, 2003).

<sup>21</sup> Constitution, Article 13.

<sup>22</sup> The police briefly detained the editor of *Le Partisan*, Amiel Nkuliza, in January 2002 for publishing that interview. Shortly after his release, Nkuliza fled the country. See chapter 5.

<sup>23</sup> For more details, see HRW, *Preparing for Elections*, 4-8.

<sup>24</sup> Mission d’Observation Electorale de l’Union Européenne, *Referendum Constitutionnel, 26 Mai 2003, Rapport Final*, 5,

<[http://europa.eu.int/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ/rwanda/index.htm](http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/rwanda/index.htm)>.

months earlier, African Rights, which has good relations with IBUKA and the Government, had celebrated Hitimana for saving Tutsi during the 1994 genocide. In addition, Hitimana had testified as a prosecution witness against accused *génocidaires* at the United Nations International Criminal Tribunal for Rwanda.

The other high-profile figure who disappeared was Lieutenant Colonel Augustin Cyiza, the former vice-president of the Supreme Court, who vanished a week after being called to a private meeting with President Kagame. Cyiza was one of the few, high-ranking Hutu army officers who had opposed the genocide and saved Tutsi (in his home province of Cyangugu). A jurist by profession, Cyiza was appointed president of the Cour de Cassation and vice-president of the Supreme Court in late 1995. Following an accusation in the government newspaper, *Imvaho*, Cyiza was suspended from his post in early 1998 for reportedly showing too much independence from the executive branch.<sup>25</sup>

Cyiza was a leading human rights defender who participated in the creation of several civil society organisations just before the genocide – including the human rights NGO, ARDHO. In his role with ARDES (Rwandan Association for the Development of the Human Sciences), he helped launch an umbrella organisation in 1993 to coordinate civil society’s pressure for democratization.<sup>26</sup> At the time of his disappearance, Cyiza was on the board of directors of CCOAIB (the Consultative Council of Organisations to Support Grassroots Initiatives), a collective of 26 Rwandan development NGOs, and Haguruka, a human rights NGO for women and children. Underscoring the fear and co-option that marks Rwandan civil society, neither CCOAIB nor Haguruka made any public statement about Cyiza’s disappearance. A Rwandan human rights defender ruefully observed: ‘Cyiza is a member of CCOAIB. What has the collective done? Not one declaration.’

Under pressure from The Netherlands, the Rwandan Government produced a superficial report into the disappearances in August 2003, which it then updated in July 2004. That second report stated that Hitimana ‘is suspected

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<sup>25</sup> Emmanuel Goujon, *L’affaire Cyiza ou la Politisation du Pouvoir Judiciaire au Rwanda*, Agence France Presse, 29 Mar. 1998, reprinted in T. Cruvellier et al. (2004), *Augustin Cyiza : Un Homme Libre au Rwanda*, 163-164.

<sup>26</sup> Nkiko Nsengimana, *A toi, Augustin Cyiza, le Militaire le Plus Civile, le Mouvement Associatif Se Souvient*, in T. Cruvellier et al. (2004), *Augustin Cyiza : Un Homme Libre au Rwanda*, 77-86.

to be living in neighboring countries’ and noted that his case is ‘similar to’ those of the former Minister of Defence and former army representative to parliament who fled to Uganda in late March 2003 – even though those two individuals surfaced immediately in Uganda and subsequently gained asylum in European countries. The same report alleged that Cyiza had joined the former army and genocidal militias in the Democratic Republic of Congo:

Lt.Col. Cyiza Augustin was welcomed because the ex-FARS (soldiers under Habyarimana) were his friends in the Rwandan Army, whereas his friend Runyaruka Eliezer [a magistrate who disappeared with Cyiza<sup>27</sup>] was received with reservation on account of his Tutsi background.<sup>28</sup>

It is not credible that Cyiza, who opposed the genocide and subsequently held high judicial posts under the RPF, would join the remnants of the genocidal military in the Congo with a Tutsi friend in tow. The available evidence suggests that the police took Cyiza and Runyaruka to a military camp where Cyiza was initially interrogated by high-ranking officers in military and police intelligence.<sup>29</sup> After that, his whereabouts are unknown. Some foreign diplomats have long presumed that Cyiza is dead.

The disappearances have had a chilling effect on Rwandan human rights defenders. As one stated, ‘The disappearances cause fear. My wife and children are not at ease.’

### C. Elections

While recognizing a multi-party system, the Constitution and election laws make political pluralism impossible. The Constitution forbids parties basing themselves on race, ethnicity, region, religion, or ‘any other division which may give rise to discrimination’.<sup>30</sup> In addition, parties ‘must constantly reflect the unity of the people of Rwanda’.<sup>31</sup> This language is repeated and

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<sup>27</sup> In late 2004, Runyaruka was spotted in Bukavu by a credible source.

<sup>28</sup> *Progress Report on Investigations on Cases of Missing Persons*, June 2004.

<sup>29</sup> Andre Guichaoua, Noel Twagiramungu, and Claudine Vidal, *Le 23 Avril 2003*, in T. Cruvellier et al. (2004), *Augustin Cyiza : Un Homme Libre au Rwanda*, 209-214.

<sup>30</sup> Constitution, Article 54.

<sup>31</sup> *Ibid.*

reinforced in the law governing political parties.<sup>32</sup> Most importantly, the Constitution and law on political parties cut political parties off from any grassroots support by permitting party offices to be established ‘only’ at the national and provincial level.<sup>33</sup> The Constitution and law on political parties also entrenched the forum of political parties whose purpose is to ensure consensus, ‘consolidat[e] national unity’, and fight divisionism and discrimination.<sup>34</sup> The Forum is chaired by the RPF Secretary-General.

By the time the presidential and parliamentary election campaigns began in mid-2003, the RPF had already silenced most of its internal political opposition: both PDR-Ubuyanja and MDR had been effectively banned. The platforms of the remaining political parties were virtually indistinguishable from the RPF’s.

President Kagame and Government officials repeatedly accused former Prime Minister Twagiramungu, Kagame’s only credible opponent in the presidential race, of promoting ethnic divisions and denying the genocide.<sup>35</sup> The then president of the Constitutional Commission, Tito Rutaramera, compared the MDR to the Nazi Party and accused Twagiramungu of always having allied himself with the ideology of killers,<sup>36</sup> even though Twagiramungu was targeted during the genocide and had to be spirited out of the country by UN peacekeeping forces.

Throughout the 2003 presidential campaign, authorities arrested, detained, and intimidated Twagiramungu supporters. Human rights defenders received complaints that approximately 75 Twagiramungu supporters around the country had been detained, and another 50 had been questioned or intimidated. In mid-July, several former MDR leaders and Twagiramungu supporters tried to create a new party, ADEP-MIZERO (Alliance for

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<sup>32</sup> Loi Organique No. 16/2003 du 27/06/2003 Regissant les Formations Politiques et les Politiciens, articles 2, 5, 18, 20, 38, 39, and 40 [hereafter Loi Organique Régissant les Formations Politiques]. To avoid running afoul of these Constitutional provisions, two small parties, the Parti Démocratique Chrétienne and the Parti Démocratique Islamiste, which had been part of the national unity government since 1994 and close allies of the RPF, changed their names.

<sup>33</sup> Constitution, Article 52; Loi Organique Régissant les Formations Politiques, article 3.

<sup>34</sup> Constitution, Article 56; Loi Organique Régissant les Formations Politiques, article 51.

<sup>35</sup> The accusation of genocide denial stems from Twagiramungu’s testimony in defence of Pastor Elizaphan Ntakirutimana at the UN International Criminal Tribunal for Rwanda (Ntakirutimana was convicted). There, Twagiramungu did not deny the genocide *per se*, but rather that it was planned and that it only targeted Tutsi. He also proposed some pernicious revisionism: that more Hutu were ‘probably’ killed than Tutsi during the period from 1990 to 1994. *Prosecutor v. Ntakirutimana*, Case Nos. ICTR-96-10-T and ICTR-96-17-T, Trial Transcript, February 4, 2002, pp. 162, 164-165, 180-181 232-233, 235, and 245-248.

<sup>36</sup> BBC, 19 Apr. 2003 (morning broadcast).

Democracy, Equality and Progress, or *Alliance pour la Démocratie, l'Équité et le Progrès*). In late July, police served summonses on the party leadership, charging them with divisionism, discrimination, and threatening state security. On state radio, the police spokesman accused them of fomenting ethnic divisions and hatred. The judicial police ordered three of them to report to the police station every day for most of August, thus preventing them from campaigning for Twagiramungu. Shortly after a vain attempt to gain asylum at the US Embassy in Kigali, Leonard Kavutse, also a former MDR parliamentarian, was arrested. He has been held in pretrial detention ever since. Another former MDR politician and ADEP-MIZERO founder, Celestin Kabanda, who was fired from his political post for his involvement with MDR, left Rwanda in mid-2004.

Two days before the election, police arrested Twagiramungu's 12 provincial coordinators for election monitoring on accusations of possessing grenades and plotting violence. The National Police Commissioner went on Radio Rwanda and accused Twagiramungu and his supporters of inciting the population to rise up against the state.<sup>37</sup> The release of those 12 individuals shortly after the election underlined the political nature of those arrests.

Direct elections for 53 parliamentary seats were contested by four political organisations: the RPF in coalition with four small parties, the Social Democratic Party (PSD), the Liberal Party (PL), and the newly created Party for Progress and Harmony (PPC). The PSD, PL, and PPC had all supported President Kagame in the presidential elections. Nonetheless, the PL, PSD, and PPC had difficulties gaining permission from local officials to hold meetings and distribute campaign leaflets, and their members were arrested, intimidated and harassed. During the campaign, the charge of divisionism was extended to the Liberal Party, the party that draws support from Tutsi genocide survivors. The then Minister of Local Administration and the RPF campaign chairman, Christophe Bazivamo, accused the Liberal Party of divisionism for focusing on survivors' concerns. The survivors' organisation, IBUKA, also criticized unnamed political parties for exploiting the suffering of survivors for their own divisionist ends.<sup>38</sup>

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<sup>37</sup> TV Rwanda, 23 Aug. 2003 (evening broadcast).

<sup>38</sup> Radio Rwanda, 19 Sep. 2003 (evening broadcast).

According to the Government's National Election Commission, President Kagame won 95% of the popular vote and the RPF garnered 74%<sup>39</sup>. Rather than advancing democratization, the elections legitimated and consolidated the RPF's *de facto* one-party rule. The EU election observer mission issued a critical appraisal of the presidential and legislative elections, which concluded:

The competition was unequal and without veritable opposition. The RPF and its candidate Paul Kagame dominated the two electoral campaigns which were marked by a climate of intimidation, questionings, and arrests. During the electoral periods, a number of irregularities and frauds took place and the lack of transparency in the process of consolidating the results was apparent.<sup>40</sup>

The EU report further noted that 'The accusations of separatism and divisionism, grave accusations within the Rwandan context, had a tendency to be utilized as an argument to limit political opponent's freedom of speech during the electoral campaigns'.<sup>41</sup>

The harassment of the political opposition did not end after the elections. The latest US State Department report on Rwanda's human rights situation lists four 'politically motivated disappearances' in 2004 of Twagiramungu campaign workers.<sup>42</sup> The State Department also observed:

Security forces harassed [PPC's] executive committee members, and several members were forced out of their jobs, including the former Postmaster General, Dr. Christian Marrara. The

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<sup>39</sup> Based on the election results, the RPF and its coalition allies got 40 out of the 53 directly elected seats in the Chamber of Deputies, while the PSD and PL received seven and six seats, respectively. The PPC got no seats.

<sup>40</sup> Mission d'Observation Electorale de l'Union Européenne, *Rapport Final, Rwanda, Election Présidentielle 25 Août 2003, Elections Legislatives 29 et 30 Septembre*, 2 Oct. 2003, 4, [hereafter EU Observer Mission, *Final Report*] <[http://europa.eu.int/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ/rwanda/index.htm](http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/rwanda/index.htm)>. The International Foundation for Election Systems (IFES), which was funded by USAID, also noted apparent fraud and a lack of transparency in the vote consolidation in the legislative elections. While the provisional legislative results announced by the National Election Commission showed no nullified ballots for Kigali-Ngali province, IFES observers had witnessed the recording of nullified ballots. International Foundation for Election Systems, *IFES Statement on Rwanda's Legislative Elections*, 4 Oct. 2003, 2, <[http://www.ifes.org/pressroom/Press%20Releases/10\\_04\\_03\\_IFES\\_Statement\\_RwandaElections.pdf](http://www.ifes.org/pressroom/Press%20Releases/10_04_03_IFES_Statement_RwandaElections.pdf)>.

<sup>41</sup> EU Observer Mission, *Final Report*, 10.

<sup>42</sup> *US State Department Report 2004*, section 1.b.

Government continued to harass former members of the MDR and other opposition figures.<sup>43</sup>

Also, the Government removed approximately half the elected provincial and district officials, two years before their terms expired.<sup>44</sup>

#### **IV. Accusing Human Rights Defenders of Genocidal Ideology in 2004**

Some foreign diplomats and observers assumed the RPF would liberalize after it won the elections by such a large margin. That optimism underestimated several factors influencing the RPF elite: their ideological commitment to democratic centralism, their fear of majoritarian democracy in a country where Hutu constitute an overwhelming majority (85%), and their intolerance of any criticism. One diplomat later remarked, 'I was really so naïve to think they would open up progressively step by step.'

The Government fastened on the tragic murder of three genocide survivors in late 2003 as a pretext to root out a supposedly widespread genocidal ideology, again using a parliamentary commission to attack perceived opponents. The Parliamentary Commission Report released in 2004 not only leveled accusations of genocidal ideology against the usual targets (the sole independent human rights organisation, LIPRODHOR, and the last independent newspaper, *Umuseso*), it also named CARE, Trócaire, BBC, VOA, and a multitude of Christian churches as channels for propagating genocidal ideology.

##### **A. Killings of Genocide Survivors in Gikongoro**

In October and November 2003, three genocide survivors were murdered in Kaduha district in Gikongoro province. At least two of the victims were murdered because of their potential testimony as witnesses in *gacaca* (community courts with lay judges that will hear genocide cases). The murder of the third victim was most likely an ordinary crime in which the victim happened to be a genocide survivor.<sup>45</sup>

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<sup>43</sup> *US State Department Report 2004*, section 2.d.

<sup>44</sup> *Ibid.*, section 3.

<sup>45</sup> Penal Reform International, *Gacaca Report VI*, May 2004, 50. In October 2004, Bosco Nyemazi was murdered in Kaduha shortly after testifying as a prosecution witness at the ICTR. Hirondelle News Agency, *More Can Be Done to Protect ICTR Witnesses*, 17 Dec. 2004, <<http://www.hirondelle.org/arusha.nsf/0/CD5D3B3F049332CE43256F7100251231?OpenDocument>>.

Local and national authorities, the media, and survivor organisations speculated that the killings would spread across the country, creating an alarmist sentiment and heightening survivors' fears. Senator Antoine Mugesera, the former IBUKA president, stated that 'people have always killed embarrassing witnesses',<sup>46</sup> as if the killing of potential *gacaca* witnesses was a constant occurrence. IBUKA representatives referred to a climate of 'savage assassinations' and asserted that insecurity in Gikongoro had forced survivors to flee the area.<sup>47</sup>

A representative of ARCT-Ruhuka (Rwandan Association of Trauma Counselors), which provides counseling to genocide survivors throughout the country, worried that exaggerated reports of killings would further traumatize survivors:

I have heard of the killings. It is a call for concern. The Government should take it seriously because it can lead to other things, but according to my own thoughts, I find it really exaggerated and this may cause the trauma cases to increase. There is already internal insecurity inside of survivors. They already can't sleep at night. If people start rumouring around the whole country it might bring survivors back to crisis.

She stated that the organisation has not seen a significant increase in survivors seeking counselling as a result of killings.

Survivors have understandable cause for insecurity. In May 2003, the Government released approximately 16,000 confessed killers back to their local communities after they had served several years in pretrial detention.

## **B. The Parliamentary Commission on Genocidal Ideology**

### **1. The Commission's Findings**

Parliament established a commission in January 2004 to investigate the Gikongoro murders and to document the existence of genocidal ideology throughout the country. The investigation appeared timed to coincide with the tenth anniversary of the genocide. Composed of ten parliamentarians, the

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<sup>46</sup> Penal Reform International, 51.

<sup>47</sup> Ibid.

Commission conducted a five-month investigation that named over 300 individuals for spreading divisionism or genocidal ideology.<sup>48</sup>

Most of the Parliamentary Report consisted of detailed descriptions of harassment and violence against individual genocide survivors. It also made generalized and unsubstantiated allegations of genocidal ideology against a broad array of civil society organisations and human rights defenders without bothering to show any causal link to the intimidation of genocide survivors. The report called for the dissolution of five civil society organisations (including the most independent human rights NGO, LIPRODHOR, and two rural development cooperatives, FOR and SDA-IRIBA), as well as the arrest of their leadership.<sup>49</sup> The Parliamentary Commission leveled accusations of genocidal ideology against Rwanda's sole independent journal (*Umuseso*), international radio stations (including BBC and VOA), international NGOs (including CARE and Trócaire), and a wide range of Christian churches.

The report notably failed to define the crucial term 'genocidal ideology'. Rather, it conflated human rights monitoring, rights-based development, and any criticism of RPF policies with genocidal ideology. Even some Government officials questioned Parliament's conclusion that genocidal ideology is pervasive. Deogratias Kayumba, vice-president of the National Human Rights Commission, stated:

If the spread of genocidal ideology was as widespread as they say, then the Government would have put armies everywhere. It is still safe. If there was really a problem, then there would be roadblocks, armies, and police everywhere.

An expatriate observer argued that the Parliamentary Report risks trivializing the meaning of genocide.

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<sup>48</sup> Rapport de la Commission Parlementaire *ad hoc*, crée en date du 20 janvier 2004 par le Parlement, Chambre des Députés pour Analyser en Profondeur les Tueries Perpétrées dans la Province de Gikongoro, Idéologie Génocidaire et Ceux qui la Propagent Partout au Rwanda, accepted by the Parliament, June 28, 2004. This is an unofficial translation from the official Kinyarwanda report, which, like the MDR Parliamentary Commission report, has never been officially translated into French or English. An electronic copy of the translation is on file with the Harvard Human Rights Project. The unofficial translation is quoted throughout this report, without page citations.

<sup>49</sup> The Report also demanded the banning of *Souvenir des Parents* and *Abahamya B'izuka*. Little is known about these two organisations.

The use of the idea of genocidal ideology is so offensive to the memory of survivors. If anyone is denigrating them, it is the Government. To equate genocidal ideology with farmers' success and land rights is unconscionable. How is genocide going to have meaning for survivors?

Several Rwandan observers also noted that the Government has been less critical of real *génocidaires*: the 16,000 confessed *génocidaires* it released in May 2003 and the former members of the genocidal army and militias who have been quietly reintegrated into the new military.

The report mostly leveled accusations against Hutu individuals and associations with large Hutu memberships, suggesting that only one group is responsible for the alleged spread of genocidal ideology. A Government official privately acknowledged, 'It is counterproductive to reconciliation to name only Hutu in the report.' An expatriate observer stated:

When I followed up with the individuals named [in the report], I noticed that two trends were apparent in this whole thing. First, personal vengeance. Local authorities had to come up with these lists and one of the easiest ways to do that was to just name people that they didn't like. Second, they want to get the Hutu intellectuals out. [Local] elections are next year and maybe they are preparing for this. The Hutu intellectual class is under attack. Impressive, charismatic people are being chased out of the country.

## **2. The Rwandan Government's Responses to the Commission**

On June 30, 2004, following three days of debate, Parliament adopted the Commission Report and asked the Government to dissolve the named NGOs. Interestingly, only 54 parliamentarians voted in favor: 20 abstained and the rest were absent.<sup>50</sup> The lack of full-fledged support from Parliament reportedly halted Government preparations for massive nationwide arrests.

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<sup>50</sup> The Constitution established a bicameral legislature with a Chamber of Deputies and a more powerful Senate. The 80-seat Chamber of Deputies consists of 53 deputies directly elected by registered voters, 24 women representatives elected by women in local government, two youth representatives elected by youth in local government, and one disabled representative elected by the federation of disabled organisations. Of the 26 senators, 12 are elected by members of local government (and represent the 11 provinces and Kigali city), eight are appointed by the President, four are designated by the Forum of Political Organisations, and two are academics elected from private and public universities. Given RPF dominance over local

As with the MDR the previous year, the RPF used a supposedly independent parliamentary commission and state-controlled media to vilify its perceived opponents. As one observer noted:

It was so easy for the Government to do this. Nothing was ever court ordered. A bunch of parliamentarians make recommendations on the radio and people react. A bunch of parliamentarians can carry out this programme and the state's hands remain clean. Using Parliament, not [the Executive], to do this makes it very difficult for the international community to react. One of the reasons this was so easy was because of the Government control of information, the power of Government speech. There is no alternative speech.

The Government did learn one lesson from the MDR affair. Rather than endorsing the Parliamentary Report immediately and inviting an international reaction, they waited almost two-and-a-half months as a means of keeping the international community engaged in quiet diplomacy. In the week following the Parliamentary vote, the Government prosecutor froze LIPRODHOR's bank account. Ten LIPRODHOR defenders (including most of the leadership) fled the country. Subsequently, LIPRODHOR's new leadership (reportedly hand-picked by the Government) issued a public apology in early September. At the same time, police started investigating individuals and organisations named in the report.

Shortly after LIPRODHOR's public apology, the Government issued a communiqué on September 18, which called on prosecutors and the judiciary to investigate 'every person, every non-profit making organisation and the civil society implicated by the findings of this [Commission], so that those found guilty can be punished in accordance with the Law'.<sup>51</sup> The Government also exhorted national and international NGOs which had genocidal ideology, as well as their international donors, to follow LIPRODHOR's example:

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government, the Forum of Political Organisations, and the universities, this byzantine legislative structure ensures continuing RPF control over the Senate and over at least 26 seats in the Chamber of Deputies. Constitution, Articles 76, 77, 82, and 84.

<sup>51</sup> Ministry of Information, *Statement by Cabinet, Meeting in its Session of 17 September 2004, on the Report of the Chamber of Deputies about the Gikongoro Killings and Genocide Ideology in Rwanda*, 18 Sept. 2004, para. 3.

This NGO recently reorganised itself and performed its own house-cleaning. It censured its own members found to still cling [to] genocidal ideology. On [September 11, 2004], LIPRODHOR's General Assembly apologized to the People and Government of Rwanda for the demeanour of some of its members and cadres.<sup>52</sup>

Using LIPRODHOR's apology to further advantage, the communiqué also denounced those who had criticized the Government for 'suppressing dissent' and who had 'exonerate[d] even those clearly owning up to their guilt'.<sup>53</sup>

The communiqué then proceeded to criticize the international donor community for supporting organisations implicated in genocidal ideology:

Government also wonders how the same [international] partners refused to clearly consider those charges found in the report and individuals implicated, whom they quickly absolved, as organisations beyond reproach, without considering individual responsibility.

Government mostly wonders how some partners believe that the act of committing their funds in the country, places them above reproach and that their motives should never be questioned.<sup>54</sup>

The Government's official response finally prompted the European Union to release a statement on October 6, 2004 criticizing the report for its unsubstantiated allegations and its broad application of the terms 'divisionism' and 'genocidal ideology'.

### **C. Accusations Against Educators and Students**

The Parliamentary Commission accused a number of principals, teachers, and students of manifesting a genocidal ideology and called on the Minister of Education and the Minister of Justice to punish them. On October 1,

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<sup>52</sup> Ministry of Information, *Statement by Cabinet, Meeting in its Session of 17 September 2004, on the Report of the Chamber of Deputies about the Gikongoro Killings and Genocide Ideology in Rwanda*, 18 Sept. 2004, para. 4.

<sup>53</sup> *Ibid.* para. 7.

<sup>54</sup> *Ibid.* para. 5.

2004, the Minister of Education issued a communiqué suspending 37 secondary school educators from their posts and 27 students from school.<sup>55</sup> The communiqué named the educators and students along with the specific accusations against them, most of which involved divisionism. Several students were also alleged to have possessed poison with the intent to poison Tutsi students. The state-run media publicized the communiqué. One Rwandan defender commented:

The Ministry of Education is saying that students are poisoning Tutsi students. They don't say these students are Hutu, but this can be assumed... it is very sad because I thought this was the mentality of another generation.

The accused students who were in their final year were not allowed to sit for the annual national exam that determines university admissions.

When questioned about the lack of due process, Deogratias Kayumba, the vice-president of the National Human Rights Commission, replied,

Sometimes you have to take positions as a government, and then afterwards you give people back their rights... We can find out later if they are innocent... sometimes you can be unfair about someone's rights and afterwards give them back their rights.

Even if some of the students are eventually found innocent, they will have to wait a year before being able to take the national exam. Following the communiqué, the police arrested five teachers and 14 students and they started investigating allegations at the universities.<sup>56</sup>

#### **D. Accusations Against Churches**

Although 90% of Rwandans are Christian and 62% belong to the Catholic Church, the Rwandan churches have done little to develop an independent civil society or defend human rights. The Catholic Church's National Peace and Justice Commission, for example, is considered fairly ineffectual. The Rwandan Catholic Church hierarchy, in particular, has always preferred to

<sup>55</sup> Communiqué de l'Etat No. 045/12.00/2004, published in *Imvaho*, No. 1569, 4-10 Oct. 2004. The communiqué also accused five religious teachers.

<sup>56</sup> Statement by Mary Gahonzire of the National Police during a Radio Rwanda programme, 10 Oct. 2004 (morning broadcast).

accommodate itself to state power. In late 1997, the Rwandan Catholic Church removed André Sibomana, a priest and human rights activist, as editor of *Kinyamateka* partly because of the journal's criticism of RPF abuses. The Church then made no effort to pressure the Government to grant Sibomana a passport to seek life-saving medical treatment overseas. Sibomana died in early 1998. The Catholic hierarchy in Butare reportedly played a behind-the-scenes role in having Laurien Ntezimana arrested and his organisation AMI banned because of envy over the international attention and funding AMI had received.

The Parliamentary Commission accused religious figures in the Catholic, Episcopal, Methodist, Baptist, and Pentecostal churches, as well as Jehovah's Witnesses, of promoting genocidal ideology and proposed a forum similar to the existing forum of political organisations to control church activities.<sup>57</sup> The RPF's hostility to Christian churches, particularly the Catholic Church, has several sources. First, the Catholic Church was deeply implicated in the so-called Hutu revolution of 1959 and subsequently supported the Hutu dictators, Grégoire Kayibanda and Juvénal Habyarimana.<sup>58</sup> Second, several church figures have been accused, and some convicted, of participating in the genocide.<sup>59</sup> Finally, the ability of the churches to mobilize the population at the local level challenges the RPF's desire for hegemonic control. A Government official privately conceded that the churches had been attacked partly because they have influence over people. Relations between the RPF and the Catholic Church reached an all-time low when RPF soldiers assassinated the Archbishop of Kigali, three bishops, and ten priests in June 1994. In 1999, the Government prosecuted Bishop Augustin Misago for genocide, but the court acquitted him in 2000.

The Parliamentary Report attacked the Catholic Church for its role in the genocide and repeated the allegations against Bishop Misago. During the

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<sup>57</sup> For more details on the Commission's allegations and the Government's harassment of the Jehovah's Witnesses, see United States Department of State, *International Religious Freedom Report: Rwanda* <<http://www.state.gov/g/drl/rls/irf/2004/35377.htm>>.

<sup>58</sup> For example, the Archbishop of Kigali was a member of the Central Committee of the ruling MRND party under Habyarimana's reign, until ordered to resign from the party by the Church hierarchy.

<sup>59</sup> The UN International Criminal Tribunal for Rwanda (ICTR) convicted Elizaphan Ntakirutimana, a Seventh Day Adventist pastor, in 2003. Athanase Seromba, a Catholic priest, is currently on trial at the ICTR for allegedly ordering the bulldozing of his own church, in which hundreds of Tutsi had sought refuge. Two other religious leaders are currently awaiting trial at the ICTR: Hormisdas Nsengimana, Rector of Christ-Roi College, and Emmanuel Rukundo, a military chaplain. In 2002, a Belgian jury convicted two nuns for their role in the killings of Tutsi refugees at Sovu. Finally, a French magistrate has been investigating the role of Wenceslas Munyeshyaka, the priest at Saint Famille Church in Kigali.

parliamentary debate, a parliamentarian accused Catholic missionaries of having ‘brought the genocide ideology with them to Rwanda’. The president of the Commission responded, ‘I agree that we should not dissolve the churches, but the Catholic Church must admit its role in the past and have the courage to let go of those priests who are guilty’. Throughout the report, the Commission accused churches of divisionism for supposedly preaching opposition to Government policies. The report recommended that Parliament enact a law regulating all churches and that the Government’s National Unity and Reconciliation Commission establish a forum of churches to serve as a structure for church-state relations. Finally, it advised the Government to dissolve those churches that did not follow state policy.

After the report’s release, one priest was imprisoned for genocidal ideology and another disappeared. In July 2004, Rwanda’s Catholic bishops issued a public response. Calling the report ‘hastily prepared’, the Bishops warned that it ‘could serve as a pretext to spread rumours, pre-judge people, and to generate interminable hatred’.<sup>60</sup> They stated the Church had encouraged its members who had participated in the genocide to repent and had acknowledged the individual responsibility of some members, but denied that the Church as an institution had promoted genocidal ideology: ‘The church is right in refusing to admit a crime it never committed.’<sup>61</sup> The Bishops also criticized the report’s allegation that most priests are Hutu as reinforcing discriminatory and divisionist ideas.<sup>62</sup> The Bishops further argued that ‘No one has the right to attribute to another person, identified by name, a genocidal ideology without having certain and irrefutable proof.’<sup>63</sup>

The Bishops’ response was read aloud to congregations throughout Rwanda. Bishop Misago of Gikongoro also replied independently, arguing the report accused him of involvement in the genocide despite the fact that he had been acquitted of all charges. The Bishops’ response is a significant step given the Catholic Church’s past unwillingness to criticize the Government. As one Rwandan human rights defender noted, ‘That’s the first time the Catholic Church said no.’

In mid-October, the Minister of Local Administration announced plans to meet with the different religious denominations ‘to invite them to make self-

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<sup>60</sup> *Réaction au Rapport Parlementaire de Juin 2004, Dialogue*, No. 235, July – August 2004, 130.

<sup>61</sup> *Ibid.* 131.

<sup>62</sup> *Ibid.* 132.

<sup>63</sup> *Ibid.* 133.

criticism'. He warned that 'If this situation does not change, we will be obliged to ask certain of these churches corroded by this hate to stop sowing disorder in the Rwandan family.'<sup>64</sup>

### **E. The NGO Law and the Civil Society Platform**

The Government passed a law in 2001 regulating NGO activities in Rwanda. Under that law, local and international NGOs are required to give 'all data and documents concerning [their] activities' within one month of a request by 'the concerned authority'.<sup>65</sup> That provision raises important concerns for human rights NGOs, which often owe a duty of confidentiality to the people they advise. Using the 2001 law, the Government has denied registration at various junctures to local NGOs, such as AMI, the non-denominational religious organisation working on reconciliation, and CAURWA, the indigenous rights organisation.

In July 2002, the Government proposed a draft 'procedures and protocol guide' for implementing the NGO law. According to a recent report:

This draft had a very restrictive spirit: it allowed Government authorities to have a say in the selection of NGO staff (Article 8), mandated that NGO projects take place within the political line of the Government, and that they be approved by authorities before being submitted to donors. The draft also proposed the establishment of a NGO forum as a legitimate interlocutor for all NGOs in business with the Government.

Surprisingly, Rwandan NGOs failed to challenge Government on this vital issue. Instead, some NGOs welcomed a certain number of controversial provisions and started contacts with Government and donors in order to translate the provisions into actions. Thus, the Consultative Council of Organisations to Support Grassroots Initiatives (CCOAIB) volunteered to help establish the national NGO Forum. ... It is, thus, difficult to see how NGOs might significantly influence the national sphere when they cannot even influence the legal framework within which they are working.<sup>66</sup>

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<sup>64</sup> Statement by Protais Musoni, the Minister of Local Administration, during a Radio Rwanda broadcast, 10 Oct. 2004 (morning broadcast).

<sup>65</sup> Law No. 20/2000 of 26/07/2000 Relating to Non-Profit Making Organisations, article 34.

<sup>66</sup> *Clingendael*, 52.

To impose democratic centralism, the RPF has been grouping various sectors of society into large umbrella organisations that it can more easily control. The RPF first developed the Forum of Political Parties, which is now enshrined in the Constitution, as a mechanism to resolve differences between the various political parties.

On July 9, 2004, less than two weeks after the Parliament voted to dissolve five NGOs for genocidal ideology, four civil society collectives close to the Government – IBUKA (genocide survivors), Pro-Femmes Twese Hamwe (women’s rights and development), CCOAIB (rural development), and CLADHO (human rights) – launched the Civil Society Platform, which seeks to group all civil society organisations under one body for purposes of dealing with the Government. The independent human rights organisations LIPRODHOR and LDGL opposed the platform when it was initially proposed in September 2003 for fear it would enable the Government to further control civil society. Taking advantage of the turmoil following the Parliamentary Report, Pro-Femmes, CCOAIB, and CLADHO moved ahead with the platform, asserting that it would serve as a forum to condemn genocidal ideology and promote solidarity among civil society. The Civil Society Platform expressed appreciation for the Parliamentary Report, though it did raise concerns about the more sweeping accusations against organisations and the fact that they had not been offered a chance to respond before the Parliament voted on the report.<sup>67</sup>

Certain members of civil society expressed doubts about the platform’s independence. One human rights defender observed:

The Government said we should form this collective because we weren’t organized, but we *were* organized. There is the platform, then the collectives, then the associations, then the members. But the Government only speaks to the platform, which may not be representative of the associations. There is too much distance between the members, for instance, and the Government.

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<sup>67</sup> *Position des Organisations Membres de la Plate Forme de la Société Civile Rwandaise Quant au Rapport de la Commission ad hoc mise sur Pied en date du 21 janvier 2004, par la Chambre des Députés du Parlement, en Vue d’Enquêter sur les Tueries de Gikongoro ainsi que sur l’Idéologie du Génocide*, 11 Aug. 2004, 3.

Another Rwandan defender concurred: ‘The platform was put in place for civil society, but they put it in place without consulting local members. ... They say they did it for us.’

## **V. Conclusion**

The Parliamentary Report and the Ministry of Education communiqué have created a generalised climate of fear and further constricted the space for independent civil society. One Rwandan human rights defender commented:

The Parliamentary Report was read over the radio. What shocked us was that some organisations were cited as preaching genocidal ideology. Other civil society organisations said, ‘Next time, we’ll be cited.’

The succeeding chapters will examine the impact of the Parliamentary Report on human rights defenders, independent journalists, and international NGOs.

## 2. An Overview of Human Rights Organisations in Rwanda

### I. Introduction

Rwanda's 1990 Constitution, which established multipartyism in Rwanda, sparked the creation of six courageous human rights organisations – ADL, ARDHO, AVP, CLADHO, Kanyarwanda, and LIPRODHOR<sup>68</sup> – that documented and exposed the state-sponsored political violence and ethnic massacres leading up to the 1994 genocide. In 1992, they invited four international human rights organisations to investigate human rights abuses in Rwanda, and later worked closely with the resulting international commission.<sup>69</sup> The international commission issued its report in March 1993 detailing official (and even presidential) involvement in the massacres of Tutsi and assassinations of Hutu political opponents, as well as war crimes committed by the RPF rebel forces.

Not surprisingly, several Rwandan human rights defenders who had worked closely with the international commission were subsequently attacked or threatened.<sup>70</sup> Almost a year after that commission's warnings to the international community, Hutu extremists unleashed the genocide, and targeted, among many others, the human rights community. During the genocide, ADL lost 58 members, AVP lost 42 members, Kanyarwanda lost 80% of its membership, and LIPRODHOR lost 60% of its members. The brutal death of Fidèle Kanyabugoyi, Kanyarwanda's founder, and the miraculous escape of Monique Mujawamariya, ADL's executive secretary, came to symbolize the heavy price paid by Rwandan defenders (Hutu and Tutsi alike) for their earlier criticism of Hutu extremism.

Following the genocide, there was cause to hope that the new RPF-led

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<sup>68</sup> ADL stands for the Rwandan Association for the Defence of Human Rights and Civil Liberties (*Association Rwandaise pour la Défense des Droits de la Personne et des Libertés Publiques*), ARDHO for the Association for the Defence of Human Rights (*Association Rwandaise pour la Défense des Droits de l'Homme*), AVP for the Association for Peace Volunteers (*Association des Volontaires de la Paix*), CLADHO for the Federation of Leagues and Associations of Human Rights in Rwanda (*Collectif des Ligues et Associations de Défense des Droits de l'Homme*), Kanyarwanda for the Association for the Promotion of Union through Social Justice (*Association pour la Promotion de l'Union par la Justice Sociale*), and LIPRODHOR for the Rwandan League for the Promotion and Defence of Human Rights (*Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme*).

<sup>69</sup> The International Commission of Investigation on Human Rights Violations in Rwanda comprised representatives from Africa Watch, the International Federation of Human Rights, the Inter-African Union of Human Rights, and the International Centre for Human Rights and Democratic Development.

<sup>70</sup> Human Rights Watch, *World Report 1994*, <<http://www.hrw.org/reports/1994/WR94/Africa-06.html>>.

Government would allow the human rights community to flourish: for example, the RPF appointed Alphonse-Marie Nkubito, CLADHO's president, as Minister of Justice. Less than a year later, Nkubito was sacked, leading moderates fled the country, and human rights defenders once again became targets for assassination, disappearance, arrest, and harassment. Then, a few years later, the suspicious death of Nkubito and the preventable death of the human rights activist André Sibomana left a vacuum of leadership in the human rights community that the RPF exploited. In 1997, the Government flooded ARDHO with RPF infiltrators. As an INGO representative observed, 'There was a point when this was all hanging in the balance. There was a struggle between the true activists and those who had flooded the organisations.' The Government also co-opted ARDHO's leadership. A Rwandan human rights advocate stated, 'when you are very critical, the Government comes and picks you. You will [then] be silenced by one who has taken a big political post'.

With few exceptions, Rwandan human rights NGOs today rarely investigate and document violations by the state, preferring instead to focus on abuses by non-state actors (such as domestic violence). Out of self-preservation, they now shy away from vigorous human rights advocacy and concentrate on non-confrontational activities such as humanitarian assistance and human rights education and training.<sup>71</sup> In addition, human rights NGOs sometimes spend as much time competing over donor funding as they do collaborating on local priorities.<sup>72</sup>

## II. National Human Rights Organisations

### A. Kanyarwanda

Several defenders, who had been imprisoned by the Habyarimana regime, formed Kanyarwanda (Association for the Promotion of Union through Social Justice) on their release in 1991. Widely considered the strongest human rights organisation in the early 1990s, Kanyarwanda lost most of its members during the genocide and it has never recovered. Understandably, Kanyarwanda shifted its focus to humanitarian work after the genocide, but it has not returned to more traditional human rights work (apart from education programmes in schools).

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<sup>71</sup> 'The majority of the domestic human rights organisations were seen as being only nominally independent of the Government....' *US State Department Report 2004*, section 4.

<sup>72</sup> See *Clingendael*, 58.

At the end of 1994, Kanyarwanda launched the African Centre for the Rehabilitation of Victims of Torture and Repression (CARVITORE) to provide medical, psychological, and social assistance to genocide survivors. It established the Foundation to Aid in the Schooling of Rwandan Orphans (CASOR) in 1995, which provides school fees, uniforms, scholastic material, and medical care for orphaned students. The number of children served by the programme peaked at 600 in 1999, but, by 2003, the programme only assisted 117 students. Kanyarwanda and Progetto-Rwanda, an Italian association, formed a programme in 1997 in which Italian ‘adoptive parents’ provide financial assistance for the education and health needs of vulnerable Rwandan children. That programme has assisted 526 children.

## B. ADL

ADL (Rwandan Association for the Defence of Human Rights and Civil Liberties) was founded in 1991 to challenge arbitrary imprisonment, illegal detention, discrimination, and restrictions on free expression.<sup>73</sup> After the genocide, ADL became the strongest human rights NGO under the leadership of André Sibomana, a priest, journalist and human rights defender. ADL dared to document RPF war crimes and spoke out against the deliberately life-threatening conditions in overcrowded prisons. When Sibomana developed a rare illness, the Government refused him a passport to seek medical treatment in Europe until it was too late.<sup>74</sup>

ADL faltered after Sibomana’s death. It published a report in 1999 that exposed human rights violations in the Government’s policy of villagisation (*imidugudu*)<sup>75</sup> and it aided victims. Since the publication of that report, ADL has become largely moribund. For a period, an ADL jurist offered free legal advice on human rights claims, but the funding evaporated, partly as a result of misappropriation by certain (former) members. ADL recently managed to raise some small funding to investigate land rights issues in Kibungo province.

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<sup>73</sup> See Association Rwandaise pour la Défense des Droits de la Personne et des Libertés Publiques, *Brève Présentation*.

<sup>74</sup> Carina Tertsakian, *Postscript*, in Andre Sibomana (1999), *Hope for Rwanda*, 160.

<sup>75</sup> From 1997 through 2001, the Rwandan government encouraged, and sometimes forced, hundreds of thousands of farmers to move from scattered homesteads to planned villages that often lacked the necessary infrastructure. This is discussed in more detail in chapter 4.

### C. ARDHO

The Government co-opted ARDHO (Rwandan Association for the Defence of Human Rights) by flooding it with RPF members after the suspicious death of its leader, Alphonse-Marie Nkubito, in 1997. ARDHO mostly gives human rights training in primary and secondary schools in the hope that students and teachers will disseminate that information in their villages. ARDHO currently manages 14 human rights clubs in three provinces (Cyangugu, Kibuye, and Umutara).

After the 2003 Parliamentary Commission Report on the MDR attacked LIPRODHOR, ARDHO's general secretary criticized LIPRODHOR for doing the bidding of foreign donors at a workshop in May 2003. International donors who reduced funding to ARDHO because of its lack of proactive human rights work later found themselves accused of divisionism and anti-Tutsi discrimination by the Parliamentary Commission.

### D. AVP

Founded in 1991, AVP now engages in human rights education through theater troupes, mass media, and a *gacaca* sensitization project. Its activities are constricted by an annual budget of less than \$90,000. One of AVP's stated objectives is 'to fight for the elimination of elements of divisionism which undermine Rwandan society'.<sup>76</sup> By adopting the Government's language, AVP appears to legitimize the use of divisionism to target perceived opponents and other defenders. With a majority of its current board reportedly holding Government positions, AVP seems to have no interest in holding the state accountable for human rights violations: its brochure asserts 'the Rwandan people must reconcile with the State, which is a guarantor of national unity'.

### E. CLADHO

In March 1993, ADL, ARDHO, AVP, and LIPRODHOR formed CLADHO (Federation of Leagues and Associations for the Defence of Human Rights in Rwanda) to jointly address massive human rights violations. Kanyarwanda joined in 1999. Since the late 1990s, CLADHO has mostly

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<sup>76</sup> Association des Volontaires de la Paix, *Informational Brochure*.

conducted a non-confrontational agenda such as promoting annual observance of the anniversary of the Universal Declaration of Human Rights. CLADHO is also active in two larger civil society projects that monitor *gacaca* proceedings and elections.<sup>77</sup>

Silas Sinyigaya, the executive secretary of CLADHO, is openly pro-government:

The Government is now a partner state. Before it was a dictatorship of the majority, but now the Government is inclusive. Things are now open, but in the minds of some people they still think there is the *status quo*, which puts into question the independence of organisations. They don't understand the new order... The Government is not forbidding human rights organisations to work.

Not surprisingly, then, LIPRODHOR had little success persuading CLADHO to publish communiqués about the arbitrary arrests and disappearances of perceived political opponents.<sup>78</sup> As a result, LIPRODHOR was forced to publish its own communiqués, thus risking greater exposure to Government attack. CLADHO grew increasingly resentful of LIPRODHOR's success and its ability to attract foreign donors. As Sinyigaya expressed it, 'LIPRODHOR was trying to get more money from donors and trying to deny CLADHO from getting this money.' He continued, 'Donors are partisan ... they discriminate based on identities and regions.'

CLADHO has become a 'briefcase NGO' that does little more than pay its staff and host occasional conferences. In late 2003, the Belgian NGO 11.11.11 stopped financing CLADHO because of its lack of seriousness, as well as its reluctance to defend LIPRODHOR in the wake of mounting Government criticism.

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<sup>77</sup> The *gacaca* monitoring project has demonstrated a measure of independence, while the election monitoring project has been largely co-opted.

<sup>78</sup> There is one notable exception: prodded by LIPRODHOR, CLADHO issued a quick report on the disappearance of Colonel Augustin Cyiza in April 2003. See CLADHO, *Rapport d'enquête sur le cas de la disparition du Lieutenant Colonel Augustin Cyiza et l'assassinat de Karanganwa*, 30 Apr. 2004.

### III. The Rwandan Human Rights Commission

The Government established the Rwandan Human Rights Commission (RHRC)<sup>79</sup> in 1999 to

[I]nvestigate and follow-up on human rights violations committed by anyone on the Rwandan territory, especially State organs and individuals under the cover of State organs as well as any national organisations working in Rwanda.<sup>80</sup>

The RHRC's first president, Gasana Ndoba, was a well-respected human rights defender who had run a small human rights NGO in Belgium before the genocide. In December 2002, the Government did not reappoint Ndoba reportedly because the RHRC's 2002 report (covering the previous year) had been too critical of some Government officials and military officers.

The Government replaced Ndoba with a former Minister of Transportation. In 2003, the RHRC issued only four communiqués: one attacking Human Rights Watch for supporting divisionism, one attacking former Prime Minister Faustin Twagiramungu for divisionism during his election campaign against President Kagame, and two others praising the presidential and parliamentary elections.<sup>81</sup> It made no public comment on the January 2003 arrest of *Umuseso's* editor, the April 2003 disappearances, or the arrests of suspected Twagiramungu sympathizers during the 2003 elections. At a public meeting in May 2003, one Commissioner acknowledged that the RHRC was not investigating Dr. Leonard Hitimana's disappearance. He justified that inaction on the grounds that Hitimana's family had not filed a complaint with the RHRC – even though the RHRC has authority to launch its own investigations. At the same meeting, the Commissioner accused Liprodhor and *Umuseso* of promoting a genocidal ideology.

The RHRC finally submitted its draft annual report for 2003 to Parliament in October 2004. Several parliamentarians criticized the report's generally positive assessment for contradicting the Parliamentary Report on genocidal ideology. The RHRC report apparently discussed the disappearances and

<sup>79</sup> The Commission is also known as the National Human Rights Commission (NHRC).

<sup>80</sup> Law No. 04/99, article 3, quoted in Human Rights Watch, *Protectors or Pretenders? Government Human Rights Commissions in Africa*, <<http://www.hrw.org/reports/2001/africa/rwanda/rwanda.html>>.

<sup>81</sup> Rwandan Human Rights Commission Communiqués, 13 May, 23 Aug., 27 Aug., and 3 Oct. 2003.

arbitrary arrests during the 2003 elections, but, as of the date of this writing, the report has still not been published in French or English.

During an October 2004 interview, the Commission's vice-president, Deogratias Kayumba, criticized national NGOs and their international donors for spreading genocidal ideology:

Former colonialists are using NGOs and giving *génocidaires* refuge in their country. They want to use NGOs to get back at the country and when we say no, they say there is no democracy! The NGOs are becoming political organisations. Either there is a political party or an NGO and when they begin to use NGOs to spread ideology we cannot accept this.

#### **IV. Independent Niche Human Rights Organisations**

##### **A. Haguruka**

Haguruka (Organisation for the Defence of the Rights of the Woman and the Child) provides legal assistance to women and children in approximately 4000 cases per year, largely through a network of over 300 volunteer paralegals that it has trained. Haguruka also pays lawyers to represent its clients in some 30 cases a year. In addition, it educates women and children about their rights.<sup>82</sup> Trócaire has worked closely with Haguruka to strengthen the organisation's ability to influence policy-makers on issues concerning women and children's rights. Haguruka has close ties to the Government: its director was appointed Minister of Justice in late 2003 (and, reportedly, she still sits on Haguruka's board). It remains unclear whether those ties will enable Haguruka to maintain a measure of independence or will eventually lead to co-option.

##### **B. AJPRODHO**

In 1997, students at the National University of Rwanda created AJPRODHO (Youth League for the Promotion and Defence of Human Rights and Development) to promote and protect human rights. Currently, AJPRODHO has 216 members (30% are university students and 70% are university

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<sup>82</sup> The Danish Institute for Human Rights (2003), *Legal Aid in Rwanda*, 35-36. Unfortunately, the authors of this report were unable to meet with representatives of Haguruka during their mission to Kigali due to time constraints.

graduates). AJPRODHO operates human rights clubs in secondary schools in Butare, Kibuye, and Umutara provinces and conducts human rights awareness raising campaigns.<sup>83</sup> AJPRODHO's Butare and Kibuye offices provide free legal representation in approximately 50 cases per year, mostly land disputes involving widows and orphans.<sup>84</sup> In addition, it informs youth in all the districts of Butare province on micro-finance projects.<sup>85</sup> Although AJPRODHO is comprised of energetic leadership, it focuses on human rights issues that generally do not involve state action.

### C. FACT

Founded in 1999 by physicians, lawyers, and members of the Medical Students Association of the National University of Rwanda (MEDSA), FACT (Forum of Activists Against Torture) provides legal, medical, psychological and socio-economic aid to torture victims, conducts public education, trains police officers, and lobbies the Government to ratify the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment and Punishment (CAT). FACT acknowledged that it has never investigated allegations that the Directorate of Military Intelligence (DMI) practices torture. For understandable reasons of self-preservation, FACT focuses most of its efforts on gender-based violence. However, this risks diluting the notion of torture, which, under the UN Convention, is largely framed in terms of official state action.<sup>86</sup>

### D. CESTRAR

CESTRAR (Central Union of Rwandan Workers), a worker's rights umbrella group is comprised of twelve trade unions. With the political reforms introduced by the 1990 Constitution, CESTRAR became independent of the Government. The US State Department recently observed, 'The law prohibits unions from having political affiliations and from publicly expressing their political, philosophical or trade union

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<sup>83</sup> The Danish Institute for Human Rights (2003), *Legal Aid in Rwanda*, 39.

<sup>84</sup> *Ibid.* 38.

<sup>85</sup> *Ibid.*

<sup>86</sup> As defined in the UN Convention, torture 'means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person... by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity'. UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention Against Torture) (entry into force June 26, 1987), Article 1, <[http://www.unhcr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhcr.ch/html/menu3/b/h_cat39.htm)>.

opinions, which... CESTRAR has said is tantamount to prohibiting organizing.’<sup>87</sup>

CESTRAR recently spearheaded a successful advocacy project to reduce the amount that Rwandan workers are levied for health insurance: from 12.5% of their salary to 7.5%, with the Government making up the difference. In 1999, CESTRAR campaigned for women to be paid 100% of their salaries during maternity leave.

CESTRAR has expressed concern over new Government qualifications for employment within the NGO field, including the requirement of a college degree. The law will restrict the number of eligible candidates given that only 10-15% of the population have secondary school qualifications and less than 1% have university degrees. CESTRAR believes the law will cause 4,000 to 5,000 people to lose their jobs – a serious prospect in a country in which a breadwinner can support up to ten people. CESTRAR is calling for the creation of Government safeguards to protect those workers who will be affected, such as aid packages consisting of job training, social integration funds, and financial assistance to open up businesses, much like the aid packages that demobilized soldiers receive.

## **V. LDGL: A Regional Human Rights Collective**

LDGL (League for Human Rights in the Great Lakes Region) is a regional umbrella organisation created in 1993 that now comprises 27 human rights NGOs from Burundi, Rwanda, and the Democratic Republic of Congo. AVP, ADL, ARDHO, Kanyarwanda, LIPRODHOR, and AJPRODHO are all members of LDGL. LDGL is widely considered one of the strongest and most independent human rights NGOs operating within Rwanda. It publishes a bi-monthly human rights magazine (*AMANI*), annual reports on the human rights situation in the Great Lakes region, and press releases on human rights violations.

In March 2003, LDGL convened an international conference on accountability in Arusha, Tanzania that led to the launching of the Coalition against Impunity in the Great Lakes in March 2003.

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<sup>87</sup> *US State Department Report 2004*, section 6.a.

Noel Twagiramungu,<sup>88</sup> a charismatic and outspoken defender, took over the leadership of LDGL in 1999. During his tenure, LDGL came under repeated attack from the Rwandan Government. In mid-2002, security agents visited LDGL's offices after a Government minister publicly accused LDGL of operating illegally. Shortly afterwards, Tom Ndahiro, a Commissioner on the Rwandan Human Rights Commission, publicly attacked Noel Twagiramungu for minimizing the genocide. In December 2002, the Government changed course and tried to co-opt Noel Twagiramungu by appointing him to the President's Council of Advisers. When that strategy failed, the Government returned to the attack: in May 2003, the government newspaper (*Imvaho*) blamed him for encouraging residents of his home region of Cyangugu to vote against the new Constitution.

Just before the 2003 presidential elections, the National Election Commission (NEC) decided to accredit only those Rwandan election observers operating under POER (Programme for Observing Elections in Rwanda), a coalition of eight umbrella organisations. As a result, LDGL was forced to conduct its election monitoring within POER. During an August meeting, POER's president expelled LDGL's Burundian and Congolese representatives saying that election observations were for Rwandans only.<sup>89</sup>

Noel Twagiramungu was publicly critical of the disappearances, arrests, and intimidation that surrounded Rwanda's 2003 elections. In particular, his investigations into the disappearance of Augustin Cyiza led to death threats against him and his family. As a result, he quietly left the country in January 2004 to pursue an LLM through the Netherlands Institute of Human Rights (SIM) at Utrecht University. One Rwandan defender stated,

When [Noel Twagiramungu] left, the flexibility and vibrance has, to a great extent, disappeared. Because he had distinguished himself: he had come out boldly on some issues. The dynamism, the critical thinking we used to hear in LDGL, we no longer have that, but our relations are still good.

While LDGL has adopted a less publicly confrontational approach, it has managed to preserve its independence, for the moment.

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<sup>88</sup> No relation to former Prime Minister and presidential candidate Faustin Twagiramungu.

<sup>89</sup> By contrast, the National Election Commission accredited a sizeable number of non-Rwandans, and two African regional organisations, to do election observing.

## VI. Suspending CAURWA for Defending Indigenous Rights

CAURWA (Community of Indigenous Peoples of Rwanda) was established in 1995 to promote the human rights and socio-economic development of the Batwa, Rwanda's indigenous people who number approximately 23,000 (less than 1% of the population).<sup>90</sup> Traditionally, the Batwa were hunters and gatherers living in forested areas, but most of them have been displaced from those areas and forced to earn a meager living from pottery-making or begging. Historically, Batwa have suffered severe discrimination from both Tutsi and Hutu.

CAURWA develops income-generating and educational activities for the Batwa and documents land rights violations, rapes, and other abuses against the Batwa. CAURWA supports affirmative action for the Batwa, which puts it at odds with the Government's denials of ethnicity. During the presidential election campaign, CAURWA issued an open letter to all the candidates expressing its concerns about the draft land law:

...[M]ore than 80% of the members of this community live without land, a logical consequence of centuries of marginalization and exclusion. ... [with respect to the marshes] the State can take into account the fundamental and legitimate needs of the Batwa community and grant them sufficient parcels for exploiting the clay which is used in the making of artisanal pottery, for more than 90% of the Batwa live off revenues coming from the sale of such pots...<sup>91</sup>

CAURWA's open letter also called on the Government to provide land for Batwa who were displaced from the forests and to use 5% of tourist revenue to help develop the Batwa community.<sup>92</sup>

In January 2004, CAURWA published a well-researched 105-page report that juxtaposed Batwa life with that of ordinary Rwandans in terms of poverty, access to education, health care, land, and employment.<sup>93</sup> CAURWA followed up in May 2004 with a report on the application of the

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<sup>90</sup> *US State Department Report*, section 5.

<sup>91</sup> CAURWA, *Lettre Ouverte aux Candidats aux Elections Présidentielles*, Aug. 2003.

<sup>92</sup> *Ibid.*

<sup>93</sup> See CAURWA, *Enquête sur les Conditions de Vie Socio-Économique des Manages Bénéficiaires de la Communauté des Autochtones Rwandais (CAURWA)*, Jan. 2004.

International Convention on the Rights of the Child to Batwa which it deposited in Geneva. The report was sharply critical of the Government:

This report ... forms part of our advocacy on behalf of one group of Rwandan children, whose rightful identity as belonging to an indigenous minority is being ignored in the name of political positioning. According to the State Report, *'Because of the social, cultural and political situation in Rwanda, there are no persons belonging to a minority or indigenous group.'* One must ask if such a Government position can benefit the respect of human rights...The Batwa of Rwanda are surrounded by insurmountable cultural myths which have contributed to several centuries of marginalisation. The Government has done nothing to protect the Batwa from the serious consequences of this social isolation.<sup>94</sup>

Following that report, the Minister of Justice refused to grant legal personality to CAURWA in a letter dated June 28, 2004, claiming that CAURWA's name and objectives were contrary to the Constitution's prohibition on divisionism. In early October, the Ombudsman advised CAURWA to change its statutes and mandate so it would not violate the Constitution.<sup>95</sup> In late October, a CAURWA representative described the problem his organisation was facing:

They accuse us of being divisionist because we support rights for the Batwa. They don't want us to talk about Hutu, Tutsi, and Twa. ... But the Twa need affirmative action to be on the same level as the Tutsi and Hutu. ... Now, we want a provisional agreement from [the Ministry of Local Administration to be able to continue operating]. But they've said we need to change our name and the objective of our activities in order to be registered.

The Government's refusal to accredit CAURWA has caused it to lose donor funding. The CAURWA representative stated, 'Right now we don't have money to go to the field.'

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<sup>94</sup> See *Shadow Report Presented by the Community of Indigenous Peoples of Rwanda (CAURWA) on the Application of the Convention with Regard to Indigenous Rwandan Children*, May 2004, 5, 14.

<sup>95</sup> L'Observatoire pour la Protection des Défenseurs des Droits de l'Homme, *Atteinte a la liberté d'association/Menaces, Rwanda*, 1 Dec. 2004.

In late November, CAURWA received a letter from the Minister of Justice demanding that it suspend its activities. At the time, CAURWA's director was at a session of the African Commission of Human and People's Rights in Dakar, where he presented a report on the situation of the Batwa. A Rwandan Government representative allegedly threatened CAURWA's director in public.<sup>96</sup>

## VII. Conclusion

The Rwandan human rights community was devastated by the genocide, but it was stronger in 1995 than it is today. By early 2004, Rwanda was left with only one, national human rights NGO, LIPRODHOR, that still tried to hold the Government accountable for a broad range of rights abuses. When the Government finally targeted LIPRODHOR for dissolution in mid-2004, the other national human rights NGOs remained largely quiet, some because they had already been co-opted and some because they feared for their own survival. CLADHO issued a letter to the Prime Minister, asking the Government not dissolve LIPRODHOR despite its 'irregularities'.<sup>97</sup> In conversation, CLADHO's executive secretary characterized some of the LIPRODHOR defenders named in the report as having 'fascist ideas'. Similarly, ARDHO's Permanent Secretary claimed that some LIPRODHOR defenders embraced 'bad ideologies' and worked with other Rwandan exiles to undermine the country. LDGL was the only human rights NGO to show any meaningful solidarity with LIPRODHOR: in an open letter to President Kagame, the regional collective contended that 'an eventual dissolution of LIPRODHOR would have grave consequences on freedom of association and expression'.<sup>98</sup> It reminded the President that, 'the promotion of economic and political governance also depends on a strong and critical civil society which can serve to strongly guard against eventual abuses of public officials' power'.<sup>99</sup>

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<sup>96</sup> L'Observatoire pour la Protection des Défenseurs des Droits de l'Homme, *Atteinte a la liberté d'association/Menaces, Rwanda*, 1 Dec. 2004.

<sup>97</sup> Letter from CLADHO to the Prime Minister, undated electronic copy.

<sup>98</sup> Letter from LDGL President to President Kagame, July 8, 2004, published as *La LDGL Écrit au Président de la République Rwandaise, Amani*, No. 54-55, Aug.-Sep. 2004, 35.

<sup>99</sup> *Ibid.*



### 3. Destroying LIPRODHOR's Independence

#### I. Introduction

LIPRODHOR (Rwandan League for the Promotion and Defence of Human Rights) emerged as Rwanda's strongest human rights organisation in the late 1990s. 'LIPRODHOR learnt lessons from other organisations – especially [from] the collapse of ARDHO', noted a LIPRODHOR advocate in exile. 'When Nkubito died, we saw how automatically they co-opted the organisation. We decided to be careful with the people we let into the organisation.'

LIPRODHOR established offices in nearly every province, and, on average, it handled about 500 human rights cases per year.<sup>100</sup> With around 725 members throughout the country, LIPRODHOR was outspoken on a wide range of politically sensitive human rights issues, including assassinations, abuses committed by the Local Defence Forces (local paramilitary), forced disappearances, torture, arbitrary arrests, land problems, and civil liberties.<sup>101</sup> LIPRODHOR conducted human rights investigations, issued reports and press releases on abuses, and published a human rights journal, *Umukindo*. LIPRODHOR monitored genocide trials and *gacaca* proceedings and published a monthly journal, *Le Verdict*, that focused on justice issues. LIPRODHOR has also lobbied the Government to ratify international human rights treaties and abolish the death penalty.

#### II. Attacks on LIPRODHOR: 2002-2003

In 2002, the Rwandan Government began a campaign to undermine and weaken LIPRODHOR, accusing it of aiding the Hutu political opposition and being a Hutu organisation.<sup>102</sup> Police arrested Grégoire Uzabakiriho, LIPRODHOR's treasurer, in May 2002 and accused him of involvement with former President Bizimungu's banned political party. Two years later, Uzabakiriho finally went to trial along with Bizimungu, the former Minister Charles Ntakirutinka, and five others. The prosecutor charged Uzabakiriho with founding a football team that served as a front for PDR activities. In his testimony, he pointed out that he was one of several LIPRODHOR members on the team, that the police who searched his house never found any

<sup>100</sup> Danish Institute, 32.

<sup>101</sup> See LIPRODHOR, *Situation des Droits de la Personne au Rwanda en 2002*, June 2003.

<sup>102</sup> ICG, *Rwanda at the End of Transition*, 13.

documents linking him to PDR, and that Bizimungu had testified he was not a member of PDR. Nonetheless, despite the lack of evidence, the court sentenced Uzabakirihó to five years for creation of a criminal association, attempted incitement against the Government, and participation in a plot against the Government.

A parliamentary commission report in April 2003 accused LIPRODHOR of disseminating the MDR's allegedly divisionist ideology. The report provided no evidence to support those charges. During the parliamentary debate on the MDR report, the commission's vice-president attacked LIPRODHOR for receiving foreign funding to spread MDR's divisionist propaganda. In May 2003, Pro-Femme Twese Hamwe, a women's collective close to the Government, called a meeting of civil society to discuss the MDR report, which turned into a forum for accusing LIPRODHOR of divisionism. At the end of the meeting, the civil society organisations issued a series of recommendations, including one for 'an investigation into LIPRODHOR which is suspected of supporting divisionism'.<sup>103</sup> CLADHO's executive secretary, who was present, made no effort to defend LIPRODHOR – even though LIPRODHOR is a CLADHO member.

In June 2003, the Government's official newspaper, *Imvaho*, accused LIPRODHOR of sowing divisionism in Cyangugu and encouraging people to vote against the new Constitution. The article published minutes of a private meeting between LIPRODHOR and its international partners (naming, among others, CARE, Trócaire, and the Belgian Embassy) as evidence that the international community was supporting and financing divisionism.<sup>104</sup> In mid-2003, LIPRODHOR's Cyangugu provincial coordinator, Innocent Mpambara, fearing for his security, fled the country.

LIPRODHOR sought financing from the European Union in 2003 to do its own monitoring of the presidential and parliamentary elections so as to avoid having its findings suppressed by POER, the pro-government, umbrella organisation for election monitoring. POER then attacked LIPRODHOR and the Government insisted that all election monitoring by Rwandan NGOs had to be conducted under POER's auspices. Eventually,

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<sup>103</sup> *Recommandations Issues de la Réunion d'Échanges sur le rapport de la commission parlementaire relatifs aux problèmes du parti politique MDR*, 9 May 2003.

<sup>104</sup> Frank Ndamage, *LIPRODHOR Sème la Confusion*, *Imvaho*, 1-8 Jun. 2003. See also Willy Rukundo, *Est-il Vrai que 'le Virus qui a Tué la Vache est Toujours Vivant dans le Cadavre de Cette Vache'*, *Imvaho*, 9-15 Jun. 2003, 23.

the EU brokered a compromise whereby POER would issue a report on the elections and LIPRODHOR would do a report on the human rights context. Government propaganda suggested that LIPRODHOR was misleading the EU Election Observer Mission. Although LIPRODHOR received complaints of arbitrary arrests, interrogations, and harassment of non-RPF supporters during the election period, it has never released a report documenting those abuses. As a LIPRODHOR defender now in exile explained:

Since 2001, we had been really much too soft because we were trying to survive. ... We were not doing enough. We had a lot of information. We had managed to establish a very effective network...but the problem is we didn't really have the space to use the information we had to advocate for human rights in Rwanda.

### **III. The 2004 Parliamentary Report's Attack on LIPRODHOR**

#### **A. Assessing the Accusations Against LIPRODHOR**

The 2004 Parliamentary Commission charged LIPRODHOR with divisionism along ethnic and regional lines and with spreading genocidal ideology, specifically naming ten board and staff members. It repeatedly criticized LIPRODHOR's work on land rights as dividing the population: 'There are those who hide themselves behind the politics of land distribution for putting the peasants in conflict. Here, above all, one finds LIPRODHOR.' Thus, it appears the Government sought to cripple LIPRODHOR in advance of enacting land reform.<sup>105</sup>

LIPRODHOR's record amply demonstrates that it is not an organisation committed to genocidal ideology. Over the years, LIPRODHOR has advocated for the rights and needs of genocide survivors through its reports, communiqués, and articles. At the time the Parliamentary Report was published, LIPRODHOR's website contained a 44-page report on the human rights situation facing survivors in 2002, a January 2004 communiqué condemning the killings of genocide survivors in Gikongoro, a January 2003 communiqué calling on the Government to create a compensation fund for genocide survivors, and several sympathetic articles in its two journals, *Umukindo* and *Le Verdict*, about genocide survivors in *gacaca* proceedings.

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<sup>105</sup> See chapter 4 for a discussion of land reform and the government's attacks on defenders doing rural development.

As with the MDR, the RPF had created divisions within LIPRODHOR and then used those internal divisions as proof of 'divisionism'. In mid-2003, LIPRODHOR's board abruptly and unwisely fired four senior staff members; two of them were strongly suspected of being RPF infiltrators (one was later awarded a government post). Those four then publicly attacked LIPRODHOR. Under pressure from donors, the board reinstated the four staff members. Subsequently, LIPRODHOR staff discovered a clandestine report on LIPRODHOR's activities for the RPF on one of its computers.

Apart from the internal split between RPF supporters and others, LIPRODHOR became divided along regional lines. A new board, dominated by members from Cyangugu, was elected in late 2002. LIPRODHOR had always had strong regional ties to Cyangugu because the organisation started there and, historically, that province has always shown an independent political streak. Unfortunately for LIPRODHOR, the timing could not have been worse as the MDR also had strong ties to Cyangugu (the presidential contender Faustin Twagiramungu was born there). Seemingly oblivious to the political dangers, some board members tried to favor Cyangugu residents within LIPRODHOR. One LIPRODHOR defender who sought exile after the Parliamentary Report acknowledged that there was a Cyangugu clique within LIPRODHOR with which he had clashed. But he noted, 'We were in the process of solving this. I think why the RPF decided to do things very fast was because they knew LIPRODHOR would be able to overcome its regional divisions.'

### **B. The Underlying Reason for the Parliamentary Attack on LIPRODHOR**

The real reason the Government went after LIPRODHOR had nothing to do with its internal divisions. Rather, LIPRODHOR had displayed too much independence and too much success in mobilizing a grassroots network of local human rights monitors. For example, in 2003, LIPRODHOR admitted 500 newly trained members from around the country. One exiled LIPRODHOR defender stated:

The organisational structure of LIPRODHOR was such that we were everywhere in the country. LIPRODHOR would get information from every corner of the country. So, LIPRODHOR

was even more informed than the prosecutors. Sometimes the prosecutors would approach us to be informed themselves. So, this contributed to the determination by the Government that LIPRODHOR could not be controlled. From that determination, LIPRODHOR was somehow considered to be a threat to the Government.

The RPF has always been deeply suspicious of any independent civil society members that work at the local level, seeing that as a challenge to their attempted hegemony. In early 2004, Protais Musoni, then State Minister for Good Governance (and now Minister of Local Administration), cautioned LIPRODHOR's representatives that their creation of a local network had opened them up to charges of genocidal ideology.

Not surprisingly, the Government resented LIPRODHOR's willingness to document and publicize its human rights violations. As one LIPRODHOR member now in exile explained:

The primary reason that LIPRODHOR was targeted was because LIPRODHOR was thought to be the only independent organisation in Rwanda that made declarations and critiqued Government actions. So many [people] in the [Rwandan] population trusted LIPRODHOR. Since the regime didn't have any control over LIPRODHOR, authorities were always afraid. Apart from the Rwandan population, even the international community trusted LIPRODHOR. That's why we had so many donors. Most of those donors were also government donors, and so sometimes they could lobby or put pressure on the Government thanks to the information they received from LIPRODHOR. So that's why the regime was not pleased by the system LIPRODHOR was working in.

A Rwandan defender who works with another human rights NGO echoed that:

[LIPRODHOR] had a systematic way of reporting violations without consulting the Government. They went directly to Amnesty International or Human Rights Watch. The Government said, 'Why don't you come first to tell us?' This is what made them come to loggerheads. They were very effective and efficient in their workings.

A Government official, speaking anonymously, confirmed that LIPRODHOR's independence is what made it such an inviting target: 'LIPRODHOR was the only human rights organisation critical of the Government. They were like *Umuseso* [the only independent newspaper]. And that is why they were targeted.' As the Commission Report also made clear, LIPRODHOR's independence had marginalized the more pro-governmental NGOs and the Rwandan Human Rights Commission, especially vis-à-vis the international donor community: 'LIPRODHOR is known for preventing other human rights organisations from receiving funding ... with the sole purpose of appropriating all funding [for itself].'

### C. LIPRODHOR Surrenders its Independence

The Commission did not interview LIPRODHOR's representatives before calling for its dissolution and it did not give LIPRODHOR an opportunity to answer the allegations. An NGO representative stated: 'They should have been given the opportunity to defend themselves after the report... They were automatically presumed guilty.' Following Parliament's vote for dissolution, and without any judicial authorization, the Government briefly froze LIPRODHOR's bank accounts. State radio repeatedly mentioned Parliament's demand for LIPRODHOR's dissolution, prompting LIPRODHOR to issue a communiqué informing the public that they had not been banned and were still functioning.<sup>106</sup>

Facing Government attacks, the loss of some of its leaders, *desolidarisation* from co-opted or compromised NGOs, and a lack of support from international donors, LIPRODHOR's remaining leadership, in a bid to save the organisation, conducted an internal investigation and met with RPF officials who they deemed sympathetic. The internal report was never publicly released, but it later reportedly served as the basis for expelling some staff members.

LIPRODHOR set up a new board and executive committee comprised of several individuals reportedly hand-picked by the Government. The new president works for the Ministry of Health.

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<sup>106</sup> LIPRODHOR, *Declaration*, 19 Jul. 2004.

Under its new leadership, LIPRODHOR issued a contrite and self-critical communiqué in mid-September 2004:

[LIPRODHOR's internal report] has shown that certain members are responsible for bad behavior which was eventually imputed to LIPRODHOR... The General Assembly has been informed and taken note that there is neither the spirit of divisionism nor a genocidal ideology within LIPRODHOR; rather, there are conflicts based on 'influence trafficking' by certain members of the same province [i.e. Cyangugu].

LIPRODHOR'S General Assembly requests pardon from the Rwandan people and Government for the bad behaviour of certain members and employees which were imputed to the League.<sup>107</sup>

A LIPRODHOR defender now in exile said, 'It was really shameful to apologize for things the organisation had never done.' He continued, 'I wonder if [the September 2004 communiqué] was not a way of telling the Government ... we are a new breed of leaders and we're ready to kneel down and do whatever you want us to do.' A Rwanda expert noted, 'The Government doesn't have to formally dissolve LIPRODHOR. They've already destroyed it.'

Following LIPRODHOR's self-criticism, the Rwandan Cabinet issued a communiqué, in which it congratulated LIPRODHOR for 'house-cleaning' and called on other named organisations to do likewise.

The Government of Rwanda calls on all non-government organisations, both national and international, as well as on their donors, where the genocide ideology exists, to courageously engage in soul-searching, to improve upon their leaders' shortcomings by reorganizing themselves and sanctioning their own members still committed to this ideology, as well as reviewing their method of work, as was done recently by LIPRODHOR. This NGO recently reorganized itself and performed its own house-cleaning. It censured its own members found to still cling [to]

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<sup>107</sup> LIPRODHOR, *Résolutions et Recommandations de la 16ème Assemblée Général Extraordinaire de la LIPRODHOR du 11/09/2004*, 11 Sep. 2004.

genocidal ideology.<sup>108</sup>

Thus, the Government portrayed LIPRODHOR's apology and vague admission of 'bad behavior' as confirmation that some of its members had been committed to 'genocidal ideology'.

A month later, in a BBC radio interview, LIPRODHOR's executive secretary repeated the argument made in the September communiqué: that its own internal investigation had concluded there was no divisionism or genocidal ideology within the organisation.<sup>109</sup> LIPRODHOR quickly issued a communiqué rebutting the executive secretary's statements, this time asserting that some members of the organisation were indeed characterized by divisionism and genocidal ideology.

In late November, LIPRODHOR's new president sent a letter to several overseas members suspending them from the organisation. That letter reads in part:

With regard to your conduct on international radio and in writing which shows how much you tarnish the image of our country, while placing LIPRODHOR in confrontation with the Government, while creating obstacles to reforms within LIPRODHOR, and while putting LIPRODHOR's interests in danger in your contacts with her donors ... as a result of the conduct of members like you, [LIPRODHOR] has been considered an instigator of divisionism within Rwandans and a promoter of GENOCIDAL ideology.<sup>110</sup>

That echoes language in the Commission Report where LIPRODHOR is accused of soiling the image of Rwanda abroad. This letter and the communiqué attacking the executive secretary leave little doubt that LIPRODHOR's board is now firmly co-opted. One LIPRODHOR defender in exile rejected the idea that LIPRODHOR's continuing survival necessitated such an accommodation: 'Survival means [preserving] some

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<sup>108</sup> Ministry of Information, *Statement by Cabinet, Meeting in its Session of 17 September 2004, on the Report of the Chamber of Deputies about the Gikongoro Killings and Genocide Ideology in Rwanda*, 18 Sep. 2004, para. 4.

<sup>109</sup> BBC, *La LIPRODHOR Déclare Avoir Repris ce 25 Octobre 2004 ses Activités sur Tout le Territoire Rwandais*, 25 Oct. 2004.

<sup>110</sup> Letter from LIPRODHOR President to Noel Twagiramungu, 20 Nov. 2004 [French translation from the Kinyarwanda by Noel Twagiramungu].

kind of organisation that cherishes our independence ... that's not a puppet to the Government.'

#### **IV. LIPRODHOR Defenders in Exile**

Just days after the parliament voted to dissolve LIPRODHOR, three of its most respected staff members fled to Kampala: Aloys Habimana, (programme coordinator), Ruben Niyibizi (administration and finance officer), and Félicien Dufitumukiza (trial monitor and logistics officer). Only a few months earlier, Habimana had toured Ireland as part of Trócaire's 2004 Lenten campaign on the Rwandan genocide. Though only Niyibizi had been named by the Parliamentary Commission, all three were mentioned during the trial of LIPRODHOR's former treasurer (they all played together on the football team that allegedly served as a front for the banned PDR-Ubuyanja party). In Kampala, they joined several other Rwandan defenders already in exile: Innocent Mpambara, LIPRODHOR's former coordinator in Cyangugu province, Amiel Nkuliza, a LIPRODHOR member and former editor of *Le Verdict*, and Ismail Mbonigaba, the former editor of *Umuseso*.

Shortly afterwards, five more LIPRODHOR defenders fled to Kampala: Fabien Bakizanye (head of the juridical team), Jean Bosco Molisho (Kibungo representative), Balthazar Ndagijimana (treasurer), Jean Damascène Ntaganzwa (Gitarama representative), and Marthe Hirwa Nyiranzeyimana (Kigali and Kigali-Ngali representative and wife of LIPRODHOR's imprisoned ex-treasurer). The latter three had also been named by the Commission. In addition, the president, Emmanuel Nsengiyumva (also named in the report), and Yvonne Niyoyita, a human rights educator in Cyangugu, fled to Bujumbura.

One LIPRODHOR defender explained why he had made the difficult decision to flee.

Having worked with LIPRODHOR so long and having investigated a number of cases [where] people were accused of this type of political offence... we knew how the police and prosecutor can accuse you. [From the case of LIPRODHOR's treasurer who was convicted with Pasteur Bizimungu,] I knew how people could arrest you for offences and keep you in prison for so many years... I was also being described as a radical person... [including] in the report that [two LIPRODHOR

members] sent to the RPF... I feared the same thing could happen in our case... I didn't want to spend two years in prison without having a chance to go to court and then they manage to find a few people who can testify against you, who can give false witness.

He also feared that his continuing presence in Rwanda would expose his family to danger. Another LIPRODHOR member described his decision in similar terms: 'Colonel Cyiza went missing last year. I thought of being in prison without any charges, which has happened to so many people who have been in prison for so many years now.'

Some LIPRODHOR defenders described how they received anonymous phone calls that threatened them with arrest or physical harm, how authorities questioned their friends and acquaintances, and how suspicious individuals lurked around LIPRODHOR's offices and near their homes. One defender recalled how he was warned:

In Kigali I knew some intelligence officers who were sent to spy on me. Some of them used to share a glass with me and leak information. They used to warn me, and say, 'We know you, we couldn't do anything bad to you, but be sure that the others will not be sympathetic to you.' Following these remarks and after consulting with my colleagues and experiencing threats I decided to leave the country.

The exiled LIPRODHOR defenders still found themselves at risk. In the past, a few prominent Rwandan exiles in East African countries had been assassinated or kidnapped. One LIPRODHOR defender reported an attempted break-in at his Kampala home by two people he believed were Rwandan security agents:

I've feared very much for my security. I've met many spies here. My home was attacked...There are holes in the doors here to undo the padlocks, and my children [who were sleeping in the living room at the time] could see the intruders reaching their hands in to try and undo the padlock. I made a noise by banging on the front door from the inside of the house, and I heard them say in Kinyarwanda, 'We will meet again'. After this we moved houses. I reported the incident to [the Kampala] police, and they said that they would carry out an investigation, but so far we've

received no report from them. They have taken no measures to protect me.

Some defenders grew increasingly frustrated with the delays in processing their asylum requests, which were originally directed at specific European embassies in Kigali. As one lamented in October:

Your whole world disappears, and no one can help you. My children do not go to school. My daughter is traumatized. No one can help...The international community does not exist. Where is the protection...? Researchers come after people are dead. If one of the [LIPRODHOR] human rights defenders here [in Kampala] dies, then everyone will come. They only come after blood. How can [the next generation of Rwandan] human rights defenders come after us when they see me here wandering in the streets of Uganda?

In the early morning hours of September 19, Ugandan police arrested six LIPRODHOR defenders. They were released on September 21, following appeals by embassies, the United Nations High Commissioner for Refugees (UNHCR), and international organisations. At the end of October 2004, the UNHCR office in Kampala offered protection and started processing their requests for asylum. A UNHCR representative confirmed the LIPRODHOR defenders could not remain in Uganda due to serious concerns for their safety. By the date of publication of this report, most of the exiled LIPRODHOR defenders had been granted asylum in Europe.

## **V. Conclusion**

LIPRODHOR's work has suffered greatly from the Commission Report. Between August and October 2004, LIPRODHOR received only 18 human rights complaints in its national office, whereas before it had averaged 28 complaints per month. LIPRODHOR's provincial coordinators reported a similar decrease in intakes throughout the country. In addition, the organisation has been forced to close down provincial offices, partly due to financial problems. It has not published its two human rights journals since the Commission report and its website is no longer functioning. Some fear that LIPRODHOR will begin to solely focus on non-sensitive issues such as HIV/AIDS, concerns which, while important, are not the issues on which LIPRODHOR has historically focused.

In early January 2005, Amnesty International reported that LIPRODHOR had been forced to close its doors for lack of funding.<sup>111</sup> The new LIPRODHOR president denounced that as a lie and contended that LIPRODHOR was functioning as normal.<sup>112</sup> It appears as though LIPRODHOR's offices are still open, although its activities are much reduced. LIPRODHOR reportedly was unable to pay its staff in December 2004, partly because it had spent so much money on its internal investigative report. Some donors appear to have reduced funding either because of concerns about LIPRODHOR's new leadership and direction or because LIPRODHOR has failed to meet some deadlines for producing substantive reports, status reports, and financial reports.

Pasteur Nsabimana, LIPRODHOR's Kigali and Kigali-Ngali representative, fled to Kampala in late January 2005 after having been expelled from the organisation. He was named in the Parliamentary Commission report.

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<sup>111</sup> Amnesty International, *Rwanda: Human Rights Organisation Forced to Close Down*, 10 Jan. 2005, <<http://web.amnesty.org/library/index/engaf470012005>>.

<sup>112</sup> Hirondele News Agency, *Leading Rwandan Rights Group Deny Reports They Are Closing*, 11 Jan. 2005, <<http://allafrica.com/stories/200501110751.html>>.

## 4. Targeting Rural Defenders in Advance of Land Reform

### I. Introduction

The Parliamentary Commission explicitly attacked LIPRODHOR for its work on land rights. It also went after several rural associations and singled out two for dissolution. The report targeted associations engaged in civic education and rights-based development. It treated successful, non-governmental development activities as an implicit criticism that the Government is not doing enough. As one Rwandan defender noted, ‘Officially, the politics is decentralization, but, in reality, the officials don’t understand it.’ In addition, the Parliamentary Commission may have wanted to weaken rural associations in advance of promulgating a controversial land law.

### II. Background: Land Reform

The most pressing domestic issue facing the Rwandan Government, and the one with the greatest potential for future conflict, is land reform. Land conflict and demographic pressure played a significant, contributing role in the 1994 genocide. Extremist propaganda had incited fear among Hutu peasants that an RPF victory would lead to a massive return of Tutsi refugees from exile who would displace and dispossess the Hutu. At times, killers received their victims’ properties as a reward for their zeal.

Although Tutsi refugees returned in large numbers after the genocide, the Government mostly adhered to the Arusha Accord’s stipulation that returnees could not reclaim land if they had been in exile more than ten years. That forced the Government to resettle a large number of returnees in undeveloped nature reserves and in newly planned villages (*imidugudu*). Also, local officials cajoled Hutu residents and Tutsi returnees in many communities into *ad hoc* land-sharing arrangements.

Rwanda simply has too many people for too little arable land: population density is high at 303 people per square kilometre (some districts have more than 800 people per square kilometre). Over 90% of Rwanda’s 8.2 million people are involved in agriculture. Almost three-quarters of the population own less than one hectare as a result of inheritance practices that have led to land fragmentation. Population growth is a staggering 3.1% per year, which means the population will double within approximately 20 years. At the

same time, agricultural productivity is declining due to soil erosion and exhaustion.<sup>113</sup> In 2003, several regions suffered serious food shortages, and, throughout 2004, the price of staple foodstuffs increased.

The Rwandan Government wants to shift from an agricultural economy based on household subsistence to one based on commercial farming. Such a transformation will require the consolidation of fragmented parcels into more efficient land holdings. To accomplish that, the Government initially proposed legal incentives to encourage sales of parcels smaller than one hectare (by denying them legal title). The state also reserved the right to order consolidation of land it deemed to be inefficiently used. As the Government's 2001 draft land policy stated: 'Not every Rwandan can possess a plot of land. Agro-pastoral land will only be allocated to those who are professional farmers or pastoralists. This is to avoid wastage by under-exploitation.'<sup>114</sup> In early 2002, the Director of Lands publicly proposed that peasant farmers who lose their property through land sales or Government expropriation could work for the commercial farmers who would buy their land.<sup>115</sup> The Government has a history of confiscating small parcels: from 1997 through 2001, it forcibly dispossessed hundreds of thousands persons in the northwestern and eastern provinces to further its policy of villagisation (*imidugudu*).<sup>116</sup>

In a Conflict Vulnerability Assessment for USAID, a team of consultants pointed up the dangers of the Government's proposed land reform:

Rwanda could be on a collision course between the state's need to achieve economic growth and individual household needs for livelihood security. ... It is not inconceivable that the push for a more 'rational' or 'scientific' approach to agriculture and land management could be used to justify (for lack of a better term) a 'professional'/elite control over land and resources. This could lead

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<sup>113</sup> UK Department for International Development, *Briefing Document: Overview of Rwanda's Land Policy and Land Law and Key Challenges for Implementation*, Feb. 2003, 1.

<sup>114</sup> Ministry of Lands (2001), *Draft Land Policy*, 25.

<sup>115</sup> Notes from speech by Director of Lands at Coexistence Network meeting, Kigali, March 2002.

<sup>116</sup> *US State Department Report 2004*, section 1.f (estimating that 600,000 persons were relocated). UNHCR and UNDP belatedly halted funding for villagisation in 2001 after reports linking it to forced removals, the destruction of existing housing, and other human rights abuses. In addition, donors expressed concern about inadequate infrastructure at the new villagisation sites. See Human Rights Watch, *Uprooting the Rural Poor in Rwanda*, May 2001; Mathijs van Leeuwen, 'Rwanda's Imidugudu Programme and Earlier Experiences with villagisation and Resettlement in East Africa', *Journal of Modern African Studies*, 39, 4, (2001), 623-644.

to ‘crony capitalist’ benefits for a narrow group of well-connected individuals. This could, in turn, work to the detriment of most Rwandans currently employed in the agricultural sector from both an employment and livelihood security standpoint. It could increase inequality and exacerbate class divisions, which if politicized, could lead to conflict.<sup>117</sup>

If the dispossessed subsistence farmers are mostly Hutu and the commercial farmers are mostly the Ugandan Tutsi elite, there is a risk of recreating the ethnically-based, patron-client relations that characterized the Tutsi monarchy and colonial period.<sup>118</sup> USAID suppressed this report for a year – until after the Rwandan elections – for fear of damaging its relations with the Rwandan Government.

With technical assistance from CARE and the Ministry of Lands, LandNet, an advocacy coalition of 32 active members, spearheaded the response of Rwandan civil society to the proposed land law and policy. In late 2003, LandNet sent a letter to President Kagame with four key recommendations: (1) ensure that land consolidation not lead to forcible dispossession; (2) increase civic participation in the land reform process; (3) offer special protections for the land rights of the indigenous Batwa; and (4) ensure protections for women’s rights.<sup>119</sup> LandNet’s lobbying effort was practically unprecedented in Rwanda’s cowed civil society.<sup>120</sup>

LandNet’s coordinator, Annie Kairaba Kyambadde, explained the organisation’s non-confrontational approach:

We’ve not had any problem because of the way we engage. We are not going to be like a pressure group and succeed. Then, we can easily be brought down. If we find somewhere where government won’t listen, we say okay.<sup>121</sup>

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<sup>117</sup> Management Systems International, *Rwanda Conflict Vulnerability Assessment*, Oct. 2002, 23.

<sup>118</sup> Ibid. 19; For a discussion of clientele relations in Rwanda before independence, see Catherine Newbury (1988), *The Cohesion of Oppression: Clientship and Ethnicity in Rwanda, 1860-1960*.

<sup>119</sup> Letter from LandNet to President Paul Kagame, 11 Dec. 2003.

<sup>120</sup> As discussed in chapter 2, the Batwa organisation, CAURWA, sent a letter to all presidential candidates during the 2003 elections expressing their concerns.

<sup>121</sup> For example, LandNet has avoided any criticism of the government’s villagisation policy or implementation.

Before sending its advocacy letter, LandNet asked the Minister of Lands for permission to take its concerns to other members of Government. Kairaba continued: '[He] said go to the Cabinet. It's not in Rwandan society that civil society has the courage to do that. We said, "Let's be brave": we decided to write to the President and copy the Ministers.' Subsequently, a presidential economic adviser met with LandNet representatives and Parliament invited the coalition to testify at hearings. Partly as a result of LandNet's advocacy, the draft land bill circulated in May 2004 made an important revision: the Minister of Lands could now 'encourage' – rather than 'order' – land consolidation.<sup>122</sup>

Despite some positive revisions, the May 2004 draft law still provoked concern among several observers. One raised three issues:

First, the new law risks the Latin-Americanisation of property – creating large land-holdings and abandoning the poor. Second, the state remains the property owner of all the land. ... Third, the population at the base was not consulted.

Another claimed the draft law 'favours the richest. We have a lot of military men and high officials who come back with cattle herds and take the swamps which are used by all the people'. The May 2004 bill removed the 50-hectare upper limit on the size of land parcels (which could have provided a check to large-scale land speculation). A third observer commented, 'We are still worried about the land commissions. We don't know how transparent that will be.'

The lower house of Parliament approved the May 2004 draft bill in November, reportedly making only grammatical changes.<sup>123</sup> At the time of writing, the law still needs to be approved by the Senate and signed by President Kagame. Once that occurs, the focus will switch to implementation of land reform. It remains to be seen whether three rural defender organisations – FOR, SDA-IRIBA, and IMBARAGA – will be in any position to monitor the impact of a new land law on economic rights in

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<sup>122</sup> Compare Ministry of Lands, *Rwanda Draft Land Bill*, May 2004, article 20 with Ministry of Lands, *Rwanda Draft Land Law*, October 2003, article 21. The May 2004 bill also states that even after consolidation, '[e]ach land holder shall continue to keep their parcel of land', article 20.

<sup>123</sup> Agence France Presse, *L'Assemblée Nationale Rwandaise Adopte Une Réforme du Régime Foncier*, 5 Nov. 2004.

the wake of the Parliamentary Commission's unfounded accusations against them.

### **III. Defenders Doing Rights-Based Development in the Countryside**

#### **A. FOR**

The Forum of Rural Organisations (FOR) is a farmers' collective founded in 1999 that promotes right-based, rural development in Rwanda's two north-western provinces, Ruhengeri and Gisenyi. Along with LIPRODHOR, FOR has conducted civic education under a programme sponsored by CARE and funded by USAID. In the words of Faustin Musanganya, FOR's President, 'If rights are respected, the terrain is good for socio-economic investment.'

FOR works closely with three other rural associations – BAIR in Gisenyi, IMBARAGA in Kigali, and Ingabo in Gitarama – through an umbrella organisation called ROPARWA (Network of Peasant Organisations in Rwanda). Aside from the Catholic Diocese, FOR is the largest civil society actor in Ruhengeri, employing approximately 500 people. It is helping to finance Rwanda's first private, secular university, the International University of Rwanda in Ruhengeri.

Even before the Parliamentary Report, FOR faced official harassment from some quarters. As a FOR document recounted:

...FOR's Secretary has been incarcerated during 3 days in Bukamba's cell. He was blamed [for] having with him a document on human rights.

...the President of FOR was controlled by a group of policemen wearing uniforms in Kigali town hall, kicked and brought to the 'Criminologie Service' and then released the same day around 7 p.m. He was accused of being an infiltrator agent and an Interahamwe [genocidal militia member].

On March, 4<sup>th</sup>, 2004, a high ranking military man called the President of FOR in a military camp in order to undergo an informal questioning. He was blamed [for] the following:

- Not having campaigned for His Excellency the President Paul Kagame.

- Not having been pleased by the election of the President of the Republic, His Excellency Paul Kagame.
  - Not having been pleased by the results of the parliamentary elections.
  - Spreading discord in Bukumba District.
- The military man threatened to put the President of FOR into prison.<sup>124</sup>

Those isolated incidents by individual Government officials now have gained a parliamentary imprimatur.

The Parliamentary Commission levelled several accusations against FOR and called for its dissolution. First, it attacked civic education and human rights monitoring by FOR, IMBARAGA, and LIPRODHOR in Ruhengeri: ‘These organisations hide themselves behind human rights monitoring as a way to get authorisation to bring people together in trainings where they teach people ideas which put them in disagreement with the state.’ The Commission further accused FOR of setting up micro-credit bureaus and granaries

[T]o show the population that the state has done nothing for them and that FOR shows people how to form associations to resolve their problems. It is planned that these associations will have a structure organised like that of the state.... It is also a method of preparing the next local and national elections. These associations have begun to function illegally.

The report also claimed that FOR preached divisionism and the ‘double genocide’ hypothesis<sup>125</sup> during the elections.

FOR’s President contested those accusations: ‘We are against all things divisionist – we teach rights.’ He said FOR had been falsely accused without being given an opportunity to defend itself and he noted that ‘the right of defence is consecrated in the Constitution’. FOR prepared a lengthy written response to the Commission Report, which it circulated in French and English to parliamentary members, Government ministers, and its

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<sup>124</sup> FOR, *Defence and Illustration of the ‘Forum des Organisations Rurales-F.O.R.’ Against Accusations Formulated by the Parliament in its Plenary Meeting of June 28<sup>th</sup>-30<sup>th</sup>, 2004*, Jul. 2004 [hereafter FOR, *Defence*], 8.

<sup>125</sup> The double-genocide thesis is the revisionist claim that the RPF committed genocide against Hutu.

donors. To rebut the charge that FOR had used its trainings to denigrate the Government and propound the ‘double genocide’ hypothesis, it attached sign-up sheets and photos documenting that Government, police and military officials had attended FOR trainings. Surely, FOR argued, ‘the content and development of the training cannot defy the vigilance of the public authority ... [for] a five-years period’.<sup>126</sup> FOR annexed a newspaper article mentioning its support for an IBUKA (the survivors’ organisation) meeting in Ruhengeri.<sup>127</sup> FOR also challenged one parliamentarian’s accusation that the organisation only employs Hutu:

...there is no mention of ethnic group in FOR’s staff files. One would then ask himself [how] did the Parliament [learn] the ethnic element attributed to FOR. It would be better if the process used by the Parliament in identifying ethnic groups be announced to the public...<sup>128</sup>

That rejoinder underscores the Parliamentary Report’s willingness to engage in ethnic labelling, notwithstanding the Government’s stated commitment to ending ethnic distinctions. FOR was the only NGO targeted by the report to mount a public defence. As of late October 2004, it had received no Government response to that defence.

After the Parliamentary Report, FOR’s bank account was frozen. FOR’s President then met with the Prosecutor General, whom he credits with unblocking the account. He contrasted FOR’s reaction to that of LIPRODHOR: ‘People suggested to me to flee the country or seek protection from [foreign] embassies. I said “No, no, no”. All the members of FOR stayed in place.’ He also credited FOR’s small size for its continuing survival.

## B. SDA-IRIBA

SDA-IRIBA (Services for the Development of Associations, or *Services au Développement des Associations*), created in 2000, is a small, rural organisation that works with more than 5058 households (grouped in 290 associations) in Rwanda’s poorest province, Gikongoro. SDA-IRIBA

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<sup>126</sup> FOR, *Defence*, 8.

<sup>127</sup> IBUKA/RUHENGERI dans la Recherche des Solutions pour Gacaca, *La Nouvelle Relève*, 15-30 Apr. 2004.

<sup>128</sup> FOR, *Defence*, 13.

focuses on improving food security and encouraging households to cultivate more profitable agricultural products.<sup>129</sup>

SDA-IRIBA treats human rights as indispensable for development: as one member stated, ‘to know one’s rights is to fight poverty’. In January 2003, SDA-IRIBA began a USAID-funded civic education project working with 165 men and 375 women grouped in 27 rural associations. SDA-IRIBA’s 2003 annual report described the civic education project in more detail:

Relying on the Universal Declaration of Human Rights and the civic education manual, participants analysed and brought to light the violations of rights in their localities. They then tried to bring out the causes of the violation, particularly, the ignorance of human rights, the non-respecting of laws ... the lack of knowledge of the rights of each organ of Rwandan society. In addition, the participants brought out the duties of everyone in the promotion of human rights and the method of promoting and fighting for human rights.<sup>130</sup>

Along with all the other participants in the USAID project, SDA-IRIBA was forced to suspend its civic education activities for several months during the election period.

The Parliamentary Report makes no mention of SDA-IRIBA in its lengthy chapter on Gikongoro. Rather, SDA-IRIBA is mentioned for the first and only time in the conclusion, where it is lumped together with FOR and LIPRODHOR as another organisation that should be dissolved for having a genocidal ideology. According to SDA-IRIBA, the Commission never contacted it before the report and never responded to a letter it sent after the report. One SDA-IRIBA member stated, ‘We were placed among the people who spread genocidal ideology simply because we do civic education with CARE and with the financing of USAID.’ He described the report’s toll on the organisation:

A lot of our members have fear of being sanctioned or taxed for being in dialogue with ‘*génocidaires*’. ... Members wonder if they can continue their activities. Little by little, we give explanations

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<sup>129</sup> SDA-IRIBA, *Rapport Annuel des Activités 2003*, 4.

<sup>130</sup> *Ibid.* 18.

and continue the work. We ask each day if we can continue. ... We are behind in our work.

He further explained the predicament of civil society organisations in Rwanda today: 'The state doesn't have confidence in civil society and sees it as an opponent. ... I am not an opponent, I'm a member of civil society. Civil society must be apolitical.'

CCOAIB, the collective of rural development associations close to the Government, has not provided support for SDA-IRIBA, even though SDA-IRIBA is one of its members. In an October 2004 interview, George Mupenzi from CCOAIB stated 'the IRIBA people won't admit that there is genocidal ideology in their organisation'.

### C. IMBARAGA

Created in 1992, IMBARAGA (Syndicate of Farmers and Ranchers of Rwanda, or *Syndicat des Agriculteurs et des Eleveurs du Rwanda*) is a union of farmers that now boasts more than 65,000 members in six provinces. IMBARAGA has formed eight federations of agricultural producers (for rice, potatoes, wheat, vegetables, fruits, tea, coffee, and milk) and has initiated several projects, including micro-credit bureaus and research on varieties of potatoes. IMBARAGA has been politically active: it met with the Constitutional Commission and it worked through LandNet to influence the new land law. An IMBARAGA representative praised the Ministry of Agriculture for giving small farmers a say in agricultural politics. In its 2004-2006 Plan of Action, IMBARAGA notes that one of the challenges facing small farmers is 'the development of spaces for constructive criticism of decisions taken by the authorities'.<sup>131</sup> For the past three years, IMBARAGA has focused on the human rights of small farmers, particularly their access to infrastructure.

When the Parliamentary Commission met with IMBARAGA it reportedly asked why the organisation did not work in certain provinces. The subsequent report accused IMBARAGA, along with LIPRODHOR and FOR, of spreading divisionism and destabilising rumours in the north-western provinces of Gisenyi and Ruhengeri.<sup>132</sup> It called on the Minister of

<sup>131</sup> IMBARAGA, *Plan d'Action Triennal 2004-2006*, Mar. 2003, 5.

<sup>132</sup> Those provinces had been the centre for the extremist Hutu Power movement before the genocide. In the late 1990s, the former genocidal forces launched incursions into those provinces from the eastern

Local Administration to ensure that IMBARAGA and three other rural associations (CLECAM, BAIR, and COODAF) reform themselves and stop practicing discrimination and divisionism. An IMBARAGA representative was surprised by the accusations: ‘No part of our programme is based on ethnicity or regionalism. We focus on [specific] regions because of agriculture – [for example,] there are no potatoes in Umutara [province].’

#### **IV. Conclusion**

The Parliamentary Commission’s attack on rural defenders engaged in civic education and rights-based development programmes, as well as their international donors (particularly CARE), seems designed to forestall any human rights monitoring of Rwanda’s imminent land reform. It also makes the Government’s oft-stated commitments to civic participation and decentralisation ring somewhat hollow.<sup>133</sup>

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Democratic Republic of Congo and the Government retaliated with a counter-insurgency. Numerous human rights abuses were committed by both sides. See African Rights, *Rwanda: The Insurgency in the North-West*, Sep. 1998.

<sup>133</sup> In September 2004, the Ministry of Local Governance issued its own *Civic Education Handbook* which listed the first principle of civic education as the ‘fight against the ideology of genocide in all its forms’. Ministry of Local Governance, Community Development and Social Affairs, *Civic Education Handbook*, Sep. 2004, 5.

## 5. Silencing Independent Journalists

### I. Introduction

In the aftermath of the 1994 genocide, in which Radio Télévision Libre des Milles Collines (RTL) and *Kangura* played a notoriously galvanising role, Rwanda's transitional government faced the task of ensuring that a resurrected press would not voice hate speech again. Ten years on, however, the Government continues to justify censorship as a necessary safeguard against genocide. In the past four years, the Government has repeatedly accused independent journalists, who uncover government corruption and human rights abuses, of inciting ethnic 'divisionism' and even genocide, likening their work to that of *Kangura*.

The Government portrays RTL and *Kangura* as cautionary tales about the dangers of too much press freedom and private media. On the contrary, RTL and *Kangura* testify to the dangers of government control and manipulation of the media. As an independent Rwandan journalist observed:

The Government is the one that can put propaganda in the minds of the people. The shareholders of RTL were also members of the Government. ... *Kangura* was trying to write the propaganda of the Government. If a government goes wrong with its politics, [government-controlled media] will help to write the propaganda of a government that has already gone astray.<sup>134</sup>

Indeed, it was Rwanda's truly independent journalists – those who challenged Government propaganda and the hate media – who were killed during the genocide.<sup>135</sup>

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<sup>134</sup> See also Jean Marie Kamatali, Freedom of Expression and its Limitations: The Case of the Rwandan Genocide, 38 *Stanford Journal of International Law* 57, 67, 2002 ('...the [Habyarimana] government created media that looked independent to outsiders, but which was under its full control behind the scenes. ... Thus, under the guise of promoting the freedom of expression, the government achieved its objective of controlling the press while spreading its propaganda'.)

<sup>135</sup> Reporters Sans Frontières estimated that 48 journalists died during the genocide. Reporters Sans Frontières' list, was republished in Jean-Pierre Chrétien et al. (1995), *Rwanda: Les Médias du Génocide*, 389.

## II. Attacks and Intimidation of Independent Journalists from 1994 to 2002

After the genocide, the RPF quickly retooled ORINFOR (the Rwandan Information Office) to disseminate its own propaganda through various government newspapers and Radio Rwanda. By 1997, André Sibomana, the editor of the Catholic weekly *Kinyamateka*, observed that, ‘apart from *Kinyamateka*, there is virtually no opposition press’.<sup>136</sup> He explained that ‘the turning point’ came in 1995 with the attack on Edouard Mutsinzi, the director of *Le Messenger*.

Towards the ends of the day, in a café in the centre of Kigali, a group of Tutsi extremists beat him for a long time without anyone intervening. ... the message got through: from then on, anyone criticizing the Government knew what to expect.<sup>137</sup>

In September 1997, the Church hierarchy replaced Sibomana with a more pliant editor and *Kinyamateka*’s reputation for independence ended.

### A. Assassinations and Disappearances

Since 1994, three journalists have been assassinated or disappeared in apparent retaliation for their work. Manasse Mugabo, director of the UN radio station’s Kinyarwanda service, disappeared in August 1995. Appolos Hakizimana, editor of *Umuravumba*, was assassinated in April 1997, a week after the authorities seized the journal for describing RPF massacres. In May 1998, Emmanuel Munyemanzi, former head of production at TV Rwanda, was killed, two months after the ORINFOR director accused him of sabotaging a programme.<sup>138</sup>

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<sup>136</sup> Andre Sibomana (1999), *Hope for Rwanda*, 144.

<sup>137</sup> Ibid. 143-144. See LDGL, *La Problématique de la Liberté d’Expression au Rwanda*, Nov. 2001, republished in *Dialogue*, Jan.-Feb. 2002, 61 (describing the attack on Mutsinzi and the disappearance of Mugabo) [hereafter called LDGL, *Liberté de l’Expression*].

<sup>138</sup> Sibomana, 143-144; LDGL, *Liberté de l’Expression*, 63; Committee to Protect Journalists, *Rwanda: Attacks on the Press in 1996*, <<http://www.cpj.org/attacks96/countries/africa/cases/rwandaimp.html>>; Committee to Protect Journalists <[http://www.cpj.org/Briefings/missing\\_list.html](http://www.cpj.org/Briefings/missing_list.html)>.

## B. Lengthy Detentions

Over the years, the Government has arrested several journalists on accusations of inciting genocide in 1994. Despite international attention, most of those journalists have never been brought to trial.<sup>139</sup> One of them, H el ene Nyirabikali, editor of the government-owned *Imvaho*, died in detention even though she had been awarded a Government prize for reconciliation in 1998. A former Radio Rwanda journalist, Albert-Baudouin Twizeyimana, was released after three-and-a-half years in pretrial detention and a former TV Rwanda journalist, Gideon Mushimiyimana, after six years. Mushimiyimana had been accused of genocide shortly after he gave information to a Radio France International (RFI) journalist.<sup>140</sup>

## C. Expulsion

In May 2002, the Government expelled Asuman Bisiika, the Ugandan-born Tutsi editor of *The Rwanda Herald*, on immigration charges shortly after he published an editorial calling for the release of former President Pasteur Bizimungu, who was arrested in April for ‘attacking state security’ and inciting divisionism.<sup>141</sup> With Bisiika’s departure, the journal collapsed. At the time, the UK’s Department for International Development (DFID), Rwanda’s largest unilateral donor, was funding the newspaper as part of its efforts to promote civil society. The Government’s action sent a powerful message to journalists: international donor support would not protect independent media.

## D. Exile

Between 1994 and 2002, seven journalists were forced into exile. The founder of *Tribune du Peuple*, Jean-Pierre Mugabe, left in 1998. After the popular Tutsi politician, Joseph Sebarenzi, and prominent Tutsi survivors fled Rwanda in 2000, *Imboni* revealed the RPF’s behind-the-scenes role. The

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<sup>139</sup> Meanwhile, the Government has still not brought Valerie Bemeriki, one of the most notorious RTLM broadcasters, to trial even though she has been in pre-trial custody for several years.

<sup>140</sup> Reporters sans Fronti eres, *The President Paul Kagame is a Predator of Press Freedom*, 7 Nov. 2001 [hereinafter RSF, *Press Freedom*] <[http://www.rsf.org/rsf/uk/html/afrique/rapport\\_01/rwanda.html](http://www.rsf.org/rsf/uk/html/afrique/rapport_01/rwanda.html)>; LDGL, *Libert e de l’Expression*, 62-63.

<sup>141</sup> Like many other Ugandan-born Tutsi, Bisiika returned to Rwanda after the genocide and began working without obtaining a work permit. The Government’s decision smacked of selective prosecution given that Bisiika had established *The Rwanda Herald* in October 2000 and had not had serious problems until he published his editorial on Bizimungu.

Government seized the journal and banned it. The two *Imboni* journalists, both Tutsi, fled the country: Deo Mushayidi (also president of the Rwandan Association of Journalists) and Jason Muhayimana. Another Tutsi journalist, Jean-Claude Nkubito with Agence France Presse, followed them into exile.<sup>142</sup>

In May 2001, John Mugabi, founding editor of the English-language monthly *Rwanda Newline* and the Kinyarwanda-language weekly *Umuseso*, sought asylum in The Netherlands after being threatened over his expose of the Rwandan military's resource exploitation in eastern Congo. At the same time, *Umuseso* journalist Shyaka Kanuma fled after trying to garner an interview with former President Bizimungu.<sup>143</sup>

At the end of 2001, police briefly detained Amiel Nkuliza, editor of *Le Partisan*, after he published an interview with Pierre Gakwandi, the MDR's secretary-general, who accused the RPF of fomenting divisions within MDR. Nkuliza had already spent two years in detention (from 1997 to 1999) for publishing photos of inmates in Kigali's overcrowded central prison.<sup>144</sup> Interviewed in October 2004, Nkuliza described why he decided to flee Rwanda in January 2002:

As the elections approached the regime was afraid that such publications could promote opposition opinions. The Government was saying that if we interviewed them we supported them but we have the right to speak to any politician that we want. I was arrested by the police and kept for four days on December 31, 2001. I was interrogated about my interview with Gakwandi. In the article, I don't reveal who the politician is that I am interviewing. They wanted to know who I did the interview with and said that it was subversive. They searched my office and found comments with Gakwandi's handwriting on it. They arrested Gakwandi after that. I was released on the fourth day of detention in January of 2002. On the fifth day, my house was surrounded by police ... while I was away. They wanted to know my whereabouts so they could take me back to court. I decided to

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<sup>142</sup> ICG, *Rwanda at the End of the Transition*, 28-29.

<sup>143</sup> RSF, *Press Freedom*, 4; LDGL, *Liberté de l'Expression*, 65, 71; ICG, *Rwanda at the End of the Transition*, 15.

<sup>144</sup> RSF, *Press Freedom*, 3.

leave the country. The risk was so high. ... I thought they would arrest me if I didn't leave.<sup>145</sup>

After Nkuliza fled, *Le Partisan* collapsed.

## E. Banning

In January 2002, the Government arrested Laurien Ntezimana and Didace Muremangingo, founders of *Association Modeste et Innocent* (AMI) and editors of its journal, *Ubuntu*. They were charged with attacking state security and inciting divisionism for publishing the word 'ubuyanja' (spiritual renewal) in *Ubuntu*'s masthead. The same word figures in the name of the banned political party (PDR-Ubuyanja) created by former President Bizimungu. Although an appeals court provisionally released them after a month in detention, Butare's provincial government banned the publication and distribution of *Ubuntu*.

## III. The 2002 Press Law

The July 2002 press law imposes criminal sanctions on the media for a wide range of ill-defined offences.<sup>146</sup> The law mandates maximum criminal sentences against publications that endanger law and order, threaten public decency, publish false news, hold the president in contempt, and defame or abuse public authorities. Journalists can be taken into custody if they excuse genocide, incite soldiers to disobedience, or publish false information likely to undermine army morale. In addition, the law forbids journalists from making unfounded accusations and writing propaganda. Under the law, everyone involved in production and circulation are potentially liable for criminal sanctions:

The following persons ... shall be prosecuted as perpetrators for offences committed using the written press: the director of the publication or the publisher, failing that, the editor-in-chief, failing that, the authors, failing that, the printers, and failing that, the sellers, distributors or bill posters.<sup>147</sup>

<sup>145</sup> Gakwandi has been in pre-trial detention since January 2002.

<sup>146</sup> President Kagame refused to sign an earlier version of the law that made incitement to genocide punishable by 20 years to the death penalty. Reportedly, he was swayed by arguments that such explicit criminal provisions belonged in the penal code.

<sup>147</sup> Law No. 18/2002 of 11/05/2002 Governing the Press [hereinafter *Press Law*], article 88. While nominally guaranteeing press freedom, the 2003 Constitution actually subordinates it to ordinary

Finally, the law requires journalists to reveal their sources when requested by judicial organs, including, presumably, the judicial police.<sup>148</sup>

The 2002 press law created the High Council of the Press, under the Office of the President, which is charged with accrediting journalists and advising the Government on censorship. The Council has no authority over government-owned media and is led by Privat Rutazibwa, editor of the pro-government Rwanda News Agency and *Grands Lac Hebdo*.

In September 2004, Internews, an American NGO, prepared a strategy paper for the Ministry of Information that recommended liberalizing the 2002 press law. However, the Minister made clear in an October 2004 interview that the Government has no immediate plans to amend the law: ‘One doesn’t want to change the law every year. We want to take a holistic view and maybe amend the law in three or four years.’<sup>149</sup>

#### IV. Limits on Private Radio

The 2002 press law had one positive feature: it authorized private radio and television stations for the first time since the genocide.<sup>150</sup> The Government displayed little interest in issuing broadcast licenses until after the 2003 elections.<sup>151</sup> Although six private FM radio stations received licenses in February 2004, that will not lead to real pluralism. Only two of the stations are commercial (another two are run by churches, one is run by the public university, and the last is part of a provincial community project).<sup>152</sup> The Minister of Information made clear that the state will retain a monopoly on information over the airwaves: ‘The public radio and television are there for relaying the action of the Government. The private media, rather, should be

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legislation: ‘The conditions for exercising such freedoms are determined by law’ – including the press law and law on divisionism. Constitution, Article 34.

<sup>148</sup> *Press Law*, article 65.

<sup>149</sup> See Internews, *Strategic Plan for Development of the Rwandan Media Sector*, 23 Sep. 2004.

<sup>150</sup> Radio remains the most important means of communication in Rwanda given the 34% illiteracy rate and the small circulation of newspapers, which are sold mostly in the capital and the university town. In a country where 90% of the population is engaged in subsistence farming, and many earn less than a dollar a day, newspapers are an unaffordable luxury.

<sup>151</sup> EU Election Mission, *Final Report*, 41.

<sup>152</sup> Ministry of Information, *Licensed Private Radio and TV Stations*; IRIN, *Privately Owned Radio Stations to Begin Operations in February*, 28 Jan. 2004. Also, the Government information agency has established community radios in three provinces.

interested in other things, like music and entertainment.’<sup>153</sup> Indeed, the two commercial stations have shied away from investigative journalism and commentary. Radio 10’s owner made clear that the station will not air any political views or programming.<sup>154</sup> As one Rwandan journalist remarked, ‘They are radios without programmes. They don’t take any risk to inform people. Radio Flash has begun to give news on Kigali, but there’s no critique, no analysis.’

## V. LIPRODHOR’S Monthly Journals

Since 1999, LIPRODHOR has published *Le Verdict* (in both a French and Kinyarwanda edition), a monthly journal that covers genocide proceedings in Rwanda and at the UN International Criminal Tribunal for Rwanda. With a staff of only four full-time journalists, *Le Verdict* has made an important contribution to documenting post-genocide justice in Rwanda. *Le Verdict* has consistently expressed concern for the plight of genocide survivors. For example, the March 2004 issue ran a lengthy and sympathetic cover story on AVEGA (Association of Genocide Widows).<sup>155</sup> Yet, only a few months later, the Parliamentary Report accused the journalist who wrote the article of propagating ‘ethnic’ divisions.

In 2002, LIPRODHOR began publicizing human rights issues through an occasional Kinyarwanda journal called *Umukindo*. Like *Le Verdict*, that journal has drawn attention to the problems facing genocide widows and orphans.<sup>156</sup> The Parliamentary Report criticized *Umukindo*’s editor, who was persecuted by the Habyarimana regime, for allegedly canvassing support for Faustin Twagiramungu – a legitimate presidential candidate – at LIPRODHOR’s offices. Since the parliamentary vote, LIPRODHOR has not published *Le Verdict* or *Umukindo*.

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<sup>153</sup> Francesco Fontemaggi, ‘Au Rwanda, l’Information Hantée par le Génocide’, *Libération*, 4 Dec. 2003. Regarding Radio Ten’s decision to broadcast entertainment, the Minister of Information subsequently claimed in an October 2004 interview: ‘That is their editorial line. That’s their choice. There is no restriction.’

<sup>154</sup> IRIN, *Rwanda: First Private Radio since Genocide Launched*, 26 Mar. 2004.

<sup>155</sup> ‘AVEGA: Dix Ans Après le Génocide’, *Le Verdict*, Mar. 2004. That issue also published a cover photo of women survivors with a caption reading, ‘“The international community must supply its contribution to compensating victims of the Rwandan genocide,” said AVEGA’.

<sup>156</sup> See, for example, ‘Les Orphelins aux Prises avec des Problèmes Insurmontables’, *Umukindo*, No. 7-8 (French translation of Kinyarwanda by *Umukindo* staff).

## VI. *Umuseso*: Rwanda's Last Independent Newspaper

*Umuseso*, which was founded in 2000, is a lively, provocative, and occasionally partisan weekly published in Kinyarwanda. The newspaper survives largely on sales because Government agencies, semi-state bodies, and private monopolies (such as the South African cellphone company, MTN Rwandacell) will not advertise in its pages. Financial constraints have forced the newspaper to reduce its staff from 18 to 10 and to limit its press run to 8000.

As Rwanda's only remaining independent newspaper, *Umuseso* has broken stories on government corruption and published criticism of the RPF. One *Umuseso* journalist complained: 'People don't know the meaning of "independent". They think we work for the opposition.'

However, the paper exhibits the lack of professionalism endemic among Rwandan journalists: most of the stories are not sourced and they traffic in rumour and innuendo. As a sympathetic Rwandan commentator observed, 'The problem is the journalists are not well-trained. They're very young, very enthusiastic, very combative.'

### A. Two Successive Editors Flee into Exile, 2002-2004

The Government has repeatedly accused *Umuseso* of inciting divisionism and genocide. In January 2002, the Government minister then responsible for the press compared *Umuseso* to *Kangura* on Radio Rwanda.<sup>157</sup> More than a year later, a commissioner of the Rwandan Human Rights Commission denounced *Umuseso*, citing a cartoon and front-page article as evidence of genocide denial:

Even here today in Rwanda, if you read some newspapers, you find some people who use the language of genocide denial... This is a denial of a planned genocide and it's being financed by some governments from Europe.<sup>158</sup>

The 2003 Parliamentary Commission Report on the MDR labelled *Umuseso* journalists 'propagandists of divisionism' and charged them with disseminating MDR's allegedly genocidal ideology. Similarly, the 2004

<sup>157</sup> RSF, *Rwanda – 2003 Annual Report*, <[http://www.rsf.org/article.php?id\\_article=6437](http://www.rsf.org/article.php?id_article=6437)>.

<sup>158</sup> Notes of statement by Tom Ndahiro, Coexistence Network meeting, Kigali, 30 May, 2003.

Parliamentary Report on ‘genocidal ideology’ stated that *Umuseso* had ‘incited the population to civil disobedience against the government in place’. The charge of genocide is particularly unfounded given that almost half the *Umuseso* journalists have been Tutsi and one, Kalisa McDowell, fought with the RPF in 1994.<sup>159</sup>

Government authorities have used the press law and law on divisionism, as well as extra-legal means, to harass *Umuseso*’s editors and journalists. In May 2002, the police interrogated editor Ismail Mbonigaba after the newspaper poked fun at a presidential speech. Subsequently, he lost some of his press access:

I was at a press conference with Kagame and I asked him, ‘Aren’t people being arrested for being [Bizimungu] supporters like when RPF supporters were arrested under [President] Habyarimana.’ And Kagame said, ‘Are you the one from *Umuseso*? I hear you’re [Bizimungu] supporters. Why haven’t you been arrested yet?’ That was the last time I was invited to a presidential conference.

In January 2003, the Government jailed Mbonigaba for a month on charges of divisionism for an article predicting that former Prime Minister Twagiramungu would challenge President Kagame in the elections.<sup>160</sup> The prosecutor provisionally released Mbonigaba before the court could hear the challenge to the detention, but he did not return Mbonigaba’s passport. This led to continuing insecurity on Mbonigaba’s part: ‘Having been released provisionally, I was always under the threat of re-arrest. I felt fear that at anytime I would be prosecuted.’

After being fired by *Umuseso* for alleged embezzlement, Mbonigaba started publishing a new journal, *Indorerwamo (The Mirror)*. The police seized the first issue, arguing that he had not given the requisite notice of his intent to publish. In fact, that seizure violated the press law because it was not made ‘through legal proceedings’.<sup>161</sup> Subsequently, he was permitted to publish after filing papers with the Government. However, the newspaper was unable to earn sufficient advertising or sales to stay afloat.<sup>162</sup>

<sup>159</sup> Francesco Fontemaggi, ‘Au Rwanda, l’Information Hantée par le Génocide’, *Libération*, 4 Dec. 2003.

<sup>160</sup> An accompanying cartoon depicted Kagame as Solomon preparing to cut a baby, labeled MDR, in half.

<sup>161</sup> *Press Law*, article 87.

<sup>162</sup> Arguably, Mbonigaba did not help the cause of independent journalism when he became the press spokesman for Twagiramungu, President Kagame’s main challenger in the 2003 presidential elections. In his defence, Mbonigaba argued, ‘I felt there was nothing I could do to practice my profession. The

In November 2003, Rwandan authorities arrested *Umuseso*'s new editor, Robert Sebufirira, and four journalists for two days for inciting divisionism and defamation for an article about the planned demobilization of the former army chief of staff. Some of the journalists were beaten while in detention. The authorities illegally seized 4000 copies of *Umuseso* to prevent its distribution.<sup>163</sup>

In January 2004, *Umuseso* published a series of articles that accused Gerald Gahima, the former Prosecutor General and vice-president of the Supreme Court, of using his position to secure a large, unsecured bank loan.<sup>164</sup> As a result, Gahima was forced to resign. *Umuseso* also published an article contending that Lieutenant Colonel Théogène Rudasingwa, Gahima's brother and director of cabinet in the Office of the President, had mismanaged a government construction contract.

The police again seized the January 20 issue of *Umuseso* and prevented it from being distributed. They also briefly detained some of *Umuseso*'s staff for questioning. Subsequently, the Directorate of Military Intelligence (DMI) questioned Sebufirira and another *Umuseso* journalist. A DMI official allegedly told them: 'You are aware of what you did to Gahima. [...] We shall not tolerate it and if you continue to attack the system we shall take you where the other Interahamwe [genocidal militia] are.' On February 26, armed men threatened Sebufirira's life. The next day, he fled to Uganda along with the paper's best-known journalist, Kalisa McDowell, and a driver.<sup>165</sup> Sebufirira was the third, successive *Umuseso* editor to leave the country.

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newspaper I started was totally blocked. ... I went purposefully to the Twagiramungu campaign knowing that people would accuse me of being politically motivated. I cannot pretend to be indifferent on issues that profoundly affect the country and on outcomes that can be a catastrophe for the population'. After Twagiramungu lost the elections, Mbonigaba received threats and fled to Uganda.

<sup>163</sup> Committee to Protect Journalists, *Rwanda: CPJ Concerned About Detention of Journalists and Seizure of Newspaper*, 21 Nov. 2003 <<http://www.cpj.org/news/2003/Rwanda21nov03na.html>>; Agence France Presse, *Remise en Liberté Provisoire des Journalistes Arrêtés au Rwanda*, 23 Nov. 2003.

<sup>164</sup> Occasionally, Government officials placed stories with *Umuseso* in order to discredit their political rivals. As Mbonigaba recalled, 'We were regularly given dossiers about people that we wouldn't use. If they didn't give us evidence to support the charges we wouldn't use them... The Government would want to use the newspaper to tarnish one politician they would want to get rid of. Even the RPF officials would give us dossiers'.

<sup>165</sup> CPJ, *Cases 2004: Africa*, <[http://www.cpj.org/cases\\_04/africa\\_cases04/rwanda.html](http://www.cpj.org/cases_04/africa_cases04/rwanda.html)>.

## B. The Polisi Affair

After Sebufifira left, Charles Kabonero, a young journalism student, took over the editorial helm of *Umuseso*. *Umuseso*'s August 1 issue carried an article by Kabonero alleging that Dennis Polisi, the vice-president of Parliament's lower house, had formed a clique of Tutsi returnees from Burundi and was challenging President Kagame's leadership of the RPF and the country: 'A citizen with whom we spoke said, "Between Kagame and Polisi, who is leading Rwanda?"'<sup>166</sup> The article also accused Polisi of nepotism and corruption. In his article, Kabonero suggested that Polisi had used the Parliamentary Commission to further his own political ambitions:

The last report of the [lower house of Parliament] on the Gikongoro killings and genocidal ideology has shown, to a majority of people, that Rwanda does not have leadership. How is it possible that those responsible for guarding the security of the population can publish that there are preparations for a second genocide everywhere in the country? However, as certain people say, this report has for its goal the soiling of Kagame's image! The ideal was the dissolution of LIPRODHOR. Only there are those who find that this report is going to have negative consequences for Rwandan politics and those agree with the will of the instigators.<sup>167</sup>

Polisi retaliated by filing suit against *Umuseso* for criminal defamation and divisionism.

The Minister of Information also asked the Press Council to investigate *Umuseso*. The Council demanded that Kabonero reveal his sources and ask pardon. Kabonero refused, arguing that any apology would compromise his legal defence. On September 13, the Council recommended that *Umuseso* be suspended for four months. That action prompted several independent journalists to sign a petition protesting the Council's action. The Minister declined to suspend *Umuseso*. As he later explained, 'A defamation case was already in the courts and we have a separation of powers; the suspension would have presumed them culpable.' In an earlier interview, the Minister also expressed the hope that the Council's action might serve as a 'lesson' to

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<sup>166</sup> Charles Kabonero, 'Qui Dirige le Rwanda?' *Umuseso* No. 186, 1-7 Aug. 2004.

<sup>167</sup> Ibid.

*Umuseso*. He added that ‘Other journalists must also take away this lesson.’<sup>168</sup>

On August 26, 2004 Tharcisse Semana, an *Umuseso* journalist, fled to Uganda after publishing articles critical of Bizimungu’s trial and the Parliamentary Commission. In a subsequent BBC radio interview, he explained, ‘The threats I suffered before leaving the country were based on my articles on former President Pasteur Bizimungu – including an *Umuseso* article entitled, “He has been condemned like Pilate.”’<sup>169</sup> He also told the Committee to Protect Journalists that, on August 25, two people tried to force him into an unmarked car. Shortly afterwards, he was reportedly threatened by three people, including someone he claimed to recognize as a member of the intelligence services. He fled the following day.<sup>170</sup>

On November 23, 2004, a Rwandan court acquitted Kabonero of ‘divisionism’, but convicted him of criminal defamation and insulting the dignity of a public official. The court rejected the prosecution’s request for a four-year sentence and \$600 fine, as well as Polisi’s claim for approximately \$90,000 in damages. Instead, the court ordered that Kabonero pay \$15 in fines and fees and pay symbolic damages of 1 franc (\$0.001) to Polisi. The prosecutor subsequently filed an appeal challenging the acquittal on the divisionism charge and the light sentence on the defamation conviction. The appeals court is expected to issue a ruling in spring 2005.<sup>171</sup>

On January 1, 2005, two more *Umuseso* journalists, Didas Gasana and Rwango Kadafi, fled Rwanda. Gasana claimed he was detained by armed men and threatened with death the day before he left. Kadafi and another *Umuseso* journalist had been attacked in mid-December 2004 by six men with knives.<sup>172</sup>

It remains to be seen whether *Umuseso* can maintain its independence. Even before the defamation trial, an *Umuseso* journalist admitted the newspaper had been compelled to engage in self-censorship to protect itself:

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<sup>168</sup> BBC broadcast, 16 Sep. 2004.

<sup>169</sup> BBC broadcast, 18 Sep. 2004.

<sup>170</sup> CPJ, *Cases 2004: Rwanda*, <[http://www.cpj.org/cases04/africa\\_cases04/rwanda.html](http://www.cpj.org/cases04/africa_cases04/rwanda.html)>.

<sup>171</sup> Agence France Presse, *Un Journaliste Rwandais Accusé de Divisionnisme sera Rejugé en Appel*, 26 Nov. 2004 ; Hironelle, *Prosecutor Appeals in Rwandan Editor Case*, 23 Feb. 2005 <<http://allafrica.com/stories/200502230733.html>>.

<sup>172</sup> CPJ, *Cases 2004: Rwanda*, <[http://www.cpj.org/cases04/africa\\_cases04/rwanda.html](http://www.cpj.org/cases04/africa_cases04/rwanda.html)>.

Sometimes when we see the pressure is too big, we cool it down. We can write 50% and survive. After that issue on Polisi, we tried to write three consecutive newspapers that were calm. We are always independent but sometimes we can censor ourselves and leave the story for the time being.

## VII. Restrictions on the International Media

Independent Rwandan journalists working for the British Broadcasting Company (BBC), Voice of America (VOA), and Radio France International (RFI) have also endured Government harassment and censorship. In 2001, security forces forced BBC and VOA journalists to turn over recordings of interviews with former President Bizimungu.<sup>173</sup> In mid-2004, police confiscated recordings made by an international station's local correspondent.

Government officials have repeatedly criticized BBC, VOA, and RFI for promoting divisionism. Shortly before the 2003 presidential elections, Fatuma Ndagiza, executive secretary of the Government's National Unity and Reconciliation Commission, criticized a Rwandan BBC journalist and stated that the foreign media was creating fear and encouraging divisionism. The 2004 Parliamentary Commission Report on genocidal ideology recommended that the Government

[S]ee if strong (or international) radio stations which have become a network of genocidal ideology should be made to reveal their sources on what is happening in Rwanda and should help condemn the genocide and those who always want to perpetrate it.

The Commission also expressed concern that residents in the southwest province of Cyangugu only receive information from Congolese radio stations which 'propagate a genocidal ideology in the Great Lakes region'. One of the named Congolese stations is Radio Okapi, a joint venture by the United Nations Observer Mission in Congo (MONUC) and the Swiss press NGO Hironnelle.

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<sup>173</sup> RSF, *Press Freedom*, 4. Two journalists with *Umuseso* were detained for several hours over their interview with Bizimungu. RSF, *Rwanda-Annual Report 2002*, <<http://www.rsf.org/article.php3>>.

One Rwandan correspondent with a foreign radio station acknowledged practicing more self-censorship since the Parliamentary Report for fear that a controversial story might lead to accusations of genocidal ideology and loss of employment. The journalist further stated that the editor has cautioned against saying anything that would cause problems.

In 2003, USAID funded Internews, an American NGO, to produce short documentary films on the elections and screen them in rural areas where people would not normally have access to television. The first film presented the presidential candidates answering the same set of policy questions. The second film featured interviews with legislative candidates about their policy positions. The National Electoral Commission refused to let those films be screened. Internews also received funding from the British Government to host a workshop on media law and responsible journalism in advance of the elections. The Government denied permission for the workshop until after the elections. Another organisation, International Media Support, sought to provide assistance in training Rwandans in monitoring the media, but the project came to nothing before the elections, in part because the High Council of the Press contested the organisation's requirements for the independence and objectivity of the monitors.<sup>174</sup>

## VIII. Conclusion

The Rwandan Government will continue to restrict press freedom as long as it continues to treat media primarily 'as a means of mobilization': 'The media will communicate to the population four core programmes which feature prominently in Government's policy – good governance, justice, economy, and social welfare.'<sup>175</sup> Nonetheless, there are some hopeful signs, most notably, the court's refusal to impose a stiff sentence on *Umuseso's* editor and the Minister of Information's refusal to back the Press Council's request for sanctions. In addition, the Minister has collaborated with Internews' development of a Government media strategy and is working with international donors to establish a training centre for journalists in Kigali.<sup>176</sup> Unfortunately, it appears the Minister has little real power. As one experienced journalist observed, '[Joseph] Bideri [the head of the government information agency] is the one with the power, though it's not

<sup>174</sup> EU Observer Mission, *Final Report*, 43.

<sup>175</sup> Ministry of Information, *Strategic Plan and Activities of the Ministry of Information in the Prime Minister's Office*, Aug. 2004.

<sup>176</sup> Ministry of Information, *Media Policy in Rwanda*, Mar. 2004, 15.

official. ... The Prime Minister's office [where the Ministry of Information is located] does not have power – it's just the executing organ.'



## 6. Attacking International NGOs That Support Defenders and Rights-Based Development

### I. Introduction

Approximately 95 international non-governmental organisations (INGOs) currently work in Rwanda, some of whom have a history stretching back to the 1960s and many others who arrived after the 1994 genocide. The INGOs have formed an important sector of civil society, which is largely independent, democratic, and protected by international donors. They provide funding, technical assistance, and occasional cover to their local partners who defend human rights.

The Government made two significant efforts to undermine INGOs in 2004: it drafted a new law that would tightly regulate INGO activities and it attacked several INGOs for sowing divisionism. This was not the first time the Government had attacked international defenders. In mid-2003, the Minister of Foreign Affairs and the Rwandan Human Rights Commission accused Human Rights Watch of promoting divisionism and genocidal ideology by publishing a report critical of the RPF's suppression of the MDR and other political opponents in advance of national elections.<sup>177</sup> Those accusations were repeatedly publicized in government and pro-government media outlets. At a public meeting in May 2003, attended by local staff of Human Rights Watch, a member of parliament publicly threatened Rwandans who help international human rights defenders. What was different about the Government's attack on international defenders in 2004 is that it went beyond the usual targets (Human Rights Watch, Amnesty International, and International Crisis Group),<sup>178</sup> focusing instead on INGOs engaged in rights-based development, such as Trócaire and CARE.

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<sup>177</sup> HRW, *Preparing for Elections*; Ministry of Foreign Affairs communiqué republished in *The New Times*, May 2003; Rwandan Human Rights Commission, *Communiqué de Presse*, 13 May 2003.

<sup>178</sup> Human Rights Watch and African Rights are the only international human rights NGO with field offices in Rwanda. Amnesty International monitors human rights developments in Rwanda from its regional headquarters in Kampala and by undertaking missions to the country. After International Crisis Group published a highly critical report in November 2002, the Rwandan government publicly accused ICG representatives of working for French intelligence and informed ICG that its representatives would not be issued visas for future visits.

## II. Targeting Rights-Based Development by INGOs

### A. The Parliamentary Commission's Accusations

The Parliamentary Commission accused the international community of 'sowing division within the Rwandan population' through international NGOs 'like 11.11.11 ... Trócaire, CARE International, NPA, etc'. The report's list of accused INGOs was explicitly non-exhaustive, leading one observer to surmise that the attack was directed against the entire INGO community. Three of the four INGOs had been similarly accused two months earlier at the National Unity and Reconciliation Commission's summit – accusations that had been broadcast on state-run radio and television.

The Parliamentary Report made sweeping allegations against INGOs without offering any evidence or details:

These organisations give financing (or aid) based on a criterion of ethnic divisionism but also they are characterized by collaboration with small groups ... of Rwandans who fight the programme of unity and reconciliation for Rwandans [and] who decide that other associations cannot receive financing from these [international] NGOs.

It also criticized INGOs for practicing ethnic discrimination and for helping Rwandan organisations create a genocidal ideology. Some INGO staff were prepared to consider that some of their members might have demonstrated ethnic bias, but suspected that the accusations came from disgruntled employees or from envious local NGOs.

The reasons behind the Parliamentary Commission's targeting of CARE, Trócaire, 11.11.11, and Norwegian People's Aid are not entirely clear. It appears that CARE, Trócaire, and 11.11.11 might have been named in part because of their support for LIPRODHOR. In addition, all four INGOs have exhibited a strong commitment to a rights-based approach to development.<sup>179</sup> Under that approach, individuals are viewed as rights-

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<sup>179</sup> CARE, *CARE Rwanda Case Study: A Rights-Based Analysis of the Root Causes of Economic Insecurity in Rwanda's Gikongoro Province for CARE RBA RG Meeting*, 19-21 May 2004; <<http://www.Trócaire.com/newsandinformation/quickfacts.htm#approach>>;

holders entitled to development assistance, rather than as passive recipients of charity. Rights-based development seeks to change social structures of inequality, exclusion, and repression that cause rights to be denied. Adopting that perspective means ‘the nature of the job becomes an essentially political one, dealing with power and policy. The struggle may focus at times on law, but its nature is political ... the pretence of technical neutrality falls away’.<sup>180</sup> Even though the Rwandan Government has adopted the rhetoric of rights-based development, it would appear to be largely an effort to appeal to donors.<sup>181</sup>

There are different approaches to promoting rights-based development, with some organisations choosing to engage more openly and directly in issues of governance than others. For example, Oxfam-GB prefers to work directly with local communities (which, in practice, means working with local authorities), rather than collaborating with local civil society organisations. The major drawback to the Oxfam-GB approach is that it reinforces the Government’s attempt to turn civil society actors into implementing partners of state policy and propaganda. In an October 2004 interview, Oxfam-GB’s country director claimed that other ‘INGOs ran into problems with the Government when they set themselves in opposition to the Government. Civil society doesn’t need to be in opposition to the Government. It can support the Government as well’. She also defended the Parliamentary Report and the Ministry of Education communiqué as legitimate responses to the existence of genocidal ideology.

## **B. The Targeted INGOS**

### **1. CARE**

CARE has a wide variety of community development projects in Rwanda, which include HIV/AIDS prevention, care, and support; women’s micro-finance and enterprise; and education for at-risk youth. CARE works with hundreds of local partners, mainly community-based associations and their networks. As part of its rights-based approach to development, CARE is committed not only to strengthening Rwandan civil society, but also to

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<<http://www.11.be/index.php?option=content&task=view&id=757>>; Norwegian People’s Aid (2003), *Policy and Strategy for NPA’s International Humanitarian and Development Work, 2003-2007*.

<sup>180</sup> Peter Uvin (2004), *Human Rights and Development*, 135.

<sup>181</sup> See, for example, Ministry of Local Administration, *Civic Education Manual*, Sep. 2004.

encouraging and supporting government agencies to realize their responsibilities towards the poorest and most marginalized Rwandans.

In April 2002, CARE started a USAID-funded ‘civil society strengthening project’ with the dual aim of ‘increasing citizen participation in local government decision making and problem solving’ and ‘developing a supportive environment for civil society’. CARE provided technical and financial assistance to nearly a dozen Rwandan NGOs to develop a civic education manual and then to train local communities across the country in identifying communal problems and working with local government structures to remedy those problems.<sup>182</sup> Initially, CARE planned to work through four civil society umbrella organisations and their local members: CCOAIB (rural development), Pro-Femmes Twese-Hamwe (women’s rights and development), CESTRAR (trade unions), and CLADHO (human rights). CARE partnered primarily with selected member organisations of those four collectives, particularly those with grassroots reach and capacity to carry out civic education and promote public dialogue. LIPRODHOR was one of CARE’s partners on that project.

In January 2003, the Ministry of Local Administration gave CARE permission to begin its civic education programme. Two months later, CARE’s partners started having difficulties with local government officials. The National Election Commission insisted that its approval was required for all civic education programmes undertaken in advance of the presidential and parliamentary elections, even though CARE’s civic education manual largely avoided any discussion of elections. CARE and some local partners sent letters to the Commission requesting approval, but received no response. Eventually, in July, the Ministry of Local Administration told CARE to suspend its project until after the elections. CARE and its local partners were allowed to resume their civic education activities only in late 2003.

The Parliamentary Report was not the first time the Government had publicly attacked CARE. In June 2003, the government newspaper, *Imvaho*, criticized CARE in two separate issues for hosting a meeting to discuss the MDR Parliamentary Commission’s attack on LIPRODHOR.

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<sup>182</sup> CARE (2002), *Rwanda Civil Society Strengthening Project*.

...[T]he rapporteur of the meeting that debated the problem of LIPRODHOR employees is an employee of CARE. That is also incredible! CARE, an organisation for humanitarian assistance, is mixing itself up in the problems of LIPRODHOR! But there also one can say ‘When someone demolishes his propriety, you lend him the machete’.<sup>183</sup>

In its preceding issue, *Imvaho* had named CARE’s expatriate employee who hosted that meeting.<sup>184</sup>

## 2. Trócaire

Trócaire (‘Compassion’ in Irish), the development arm of the Irish Catholic Church, emphasizes social justice. Trócaire has worked closely with LIPRODHOR over the years. *Imvaho* named Trócaire, along with CARE and other INGOs, for taking part in a May 2003 meeting to discuss the MDR Parliamentary Commission’s accusations against LIPRODHOR. That same month, a Trócaire staff member courageously challenged a Government representative at a public meeting to produce evidence for the accusations of divisionism against LIPRODHOR.

As part of Trócaire’s 2004 Lenten campaign on the tenth anniversary of the Rwandan genocide, Trócaire sponsored members of some of its partner organisations to tour the Republic of Ireland and northern Ireland to educate the Irish public on the progress made by Rwandans since the genocide. LIPRODHOR’s now-exiled programme coordinator, Aloys Habimana, was one of the four people who went on that tour. The other three were Jane Abatoni, coordinator of the Rwandan Association of Trauma Counsellors (ARCT-Ruhuka), Alexis Habiyambere, Bishop of Nyundo Diocese, and Father Adalbert Mutuyisugi, a priest from Kabgayi Diocese.

Like CARE, Trócaire has been at the forefront of rights-based development in Rwanda. In February 2002, Trócaire established a micro-fund to promote advocacy among Rwandan civil society organisations. As Trócaire explained:

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<sup>183</sup> Willy Rukundo, ‘Est-il Vrai que “le Virus qui a Tue la Vache est Toujours Vivant dans le Cadavre de cette Vache”!’, *Imvaho*, 9-15 Jun. 2003.

<sup>184</sup> Frank Ndamage, ‘LIPRODHOR Sème la Confusion’, *Imvaho*, 2-8 Jun. 2003.

The initiative was undertaken to address the following situation which is aptly described by [the UK Department for International Development]: ‘Civil society in Rwanda currently lacks the ability to influence government in order to increase its accountability, transparency and responsiveness to the interests of the poor people or to effectively represent the interest of its constituents in decision making processes.’<sup>185</sup>

With support from DFID, Trócaire awarded small, six-month grants to 12 organisations, ranging from the Government’s Rwandan Human Rights Commission to LIPRODHOR. Trócaire provided training and technical assistance on advocacy to the grant recipients. The success of the initial programme led Trócaire and Caritas New Zealand to finance another round of short-term advocacy projects. As a result, Réseau des Femmes (a rural women’s collective) lobbied the Government and donors for greater funding to provide clean water to rural areas in the north-west. Another women’s organisations, Duterimbere, advocated for changes to the way that micro-finance institutions are regulated and taxed.

Trócaire and Caritas New Zealand also decided to fund four long-term advocacy initiatives with CAURWA (a Batwa organisation), CESTRAR (a trade union federation), Haguruka (a women and children’s rights organisation), and ARTC (Rwandan Association of Christian Workers). Among its achievements, Trócaire’s programme empowered CAURWA to publish an open letter to presidential candidates during the 2003 elections to advocate for Batwa land rights. Trócaire’s financial support to CAURWA is now on hold because of the Government’s refusal to grant NGO registration to CAURWA, but technical support is ongoing.

Trócaire was one of the few INGOs with a Rwandan director. In the wake of the Parliamentary Report, police investigated rumours that he had discriminated against Tutsi within the organisation. The country director went to Ireland for discussions, and in light of events, requested leave to study in Ireland. In December 2004, the Government refused to renew the work visa for the head of Trócaire’s peace and reconciliation programme. He and his family left Rwanda three days after the refusal.

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<sup>185</sup> Trócaire, *Civil Society Advocacy Programme (2003-2006)*, quoting ‘Overall Problem Statement and Approach – Rwanda Civil Society Support Programme proposal submitted to DFID Rwanda’.

### 3. 11.11.11

11.11.11 is a Brussels-based coalition of Flemish NGOs that engages in rights-based development. In the past two years, 11.11.11 has been rethinking its strategy of working through Rwandan collectives, as those collectives have become less independent. In May 2003, 11.11.11 sent letters to its three principal partners (CCOAIB, CLADHO, and Pro-Femmes Twese Hamwe) expressing support for LIPRODHOR and asking them to explain their position vis-à-vis the attack on LIPRODHOR during a civil society meeting hosted by Pro-Femmes that month. CCOAIB, CLADHO, and Pro-Femmes responded, and 11.11.11 followed up with further discussions. Eventually, 11.11.11 ended its support for CLADHO largely because of that NGO's failure to engage in more proactive human rights work.

In late 2003, the Minister of Foreign Affairs met privately with representatives of 11.11.11 and accused the organisation of sullyng Rwanda's international image and of having linkages with political and armed opposition outside Rwanda. After the publication of the Parliamentary Commission Report, the Rwandan authorities accused 11.11.11 of engaging in politics and asked them to restrict themselves to development work.

### 4. Norwegian People's Aid

Norwegian People's Aid (NPA) recently adopted a rights-based development approach in Rwanda.<sup>186</sup> In its initial interventions after the genocide, NPA focused most of its efforts on the health sector, supporting district hospitals in three provinces and training health care professionals. NPA started a justice and human rights project in 1997, which helped to build courts and train judicial officers in four provinces.<sup>187</sup> NPA established a civil society project in 2002. In 2004, NPA seriously began to shift its strategy in Rwanda towards local partnerships and a rights-based approach that focused on three rights: (1) the right of youth to participate and be

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<sup>186</sup> Norwegian People's Aid, *Policy and Strategy for NPA's International Humanitarian and Development Work 2003-2007*, <http://ips.idium.no/folkehjelp.no/?module=Articles;action=ArticleFolder.publicOpenFolder;ID=737;lang=eng>.

<sup>187</sup> Norwegian People's Aid, *NPA in Rwanda*, 25 Feb. 2004, <http://ips.idium.no/folkehjelp.no/?module=Articles;action=ArticleFolder.publicOpenFolder;ID=396;lang=eng>.

heard; (2) the right of access to land and natural resources; and (3) the right of women to be free from violence. The justice and civil society projects were consequently integrated into one programme. Rather than developing its own civic education project, NPA has participated in a national process to create a framework for civic education.

NPA requested clarification of the allegations made by the Parliamentary Commission, but it has never received an official, written reply. When NPA's international director met Government officials after publication of the Commission's report, NPA's motives and principles were never questioned or labelled divisionist. It appears the Commission may have named NPA because of allegations of discrimination by a former employee against the former resident representative.

### **C. The INGO Response to the Parliamentary Commission Report**

Members of the named INGOs were distressed by the Parliamentary Report. As one stated, '[Our organisation] continues to be surprised and offended, even upset, if not outraged, by the loose accusations.' A member of a named INGO also observed the contradiction in the Government's accusations: 'On one hand you can't talk about ethnic groups, everyone is Rwandan, but then an organisation can be raked over the coals for not hiring Tutsi.'<sup>188</sup>

Fifty-five INGOs belong to the INGO Network, which was established in 2001 at the urging of the Ministry of Local Administration. There was considerable indecisiveness within the INGO Network over how to respond to the Parliamentary Report's naming of local and international NGOs. Some INGOs wanted to express public indignation, but others, including CARE, preferred to investigate the allegations before making a response.

In mid-September, nearly three months after the Parliamentary Report, the INGO Network sent a strongly worded letter to the Minister of Local Administration. It began by noting that the Government had never responded to the Network's request for an official copy of the report. The letter then expressed concern over the report's unsubstantiated accusations of genocidal ideology against both INGOs and local NGOs:

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<sup>188</sup> In 2002, the Government refused to let an independent consultant for an INGO include a question on ethnic origin so the INGO could get a better sense of the demographic make-up of its staff.

All members of the INGO Network have a strong commitment to support the process of reconciliation and we strongly condemn any actions and beliefs that promote genocide. It is therefore unfortunate that international organisations are mentioned in the report as channels for disseminating a genocide ideology, in particular as evidence to substantiate the allegations has not been provided.

... This may lead to arbitrary decisions and actions against those implicated in the report. As such, we consider the presumption of innocence at risk...

... we hope the Government of Rwanda will consider the fact that those implicated in the report were not given the opportunity, prior to the adoption of the report, to respond to the allegations made against them.

In addition, we hope that the Government recognizes the intimidating effect of the report on civil society and its threat to undo the accomplishments in the reconciliation process and the development of a pluralist society.<sup>189</sup>

The letter called on the Rwandan Government 'to acknowledge the inadequacies of the commission's methodology and to rehabilitate publicly those harmed by the report's poorly substantiated accusations'.<sup>190</sup> At the time of writing, the Government has made no formal response to that letter.

By taking so long to react to a direct attack on some of its members, the INGO Network underscored its lack of cohesion and weakness. That sends a discouraging message to Rwandan partners, who are even more vulnerable to government attack. In addition, there is now concern that some INGOs will shy away from explicit rights-based development work in an attempt to lower their profiles and protect their staff and partners.

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<sup>189</sup> Letter from the INGO Network to the Minister of Local Administration, 17 Sep. 2004.

<sup>190</sup> Ibid.

### III. A Proposed Legal Framework that Would Restrict INGO Activities

In response to the INGOs that flooded into Rwanda after the genocide, the Government passed a law in December 1994 to regulate INGO activities. That law required INGOs to register with the Government and to obtain official approval for their expatriate staff. In addition, it gave the Government the authority to suspend or dissolve organisations.<sup>191</sup> In late 1995 and early 1996, the Government expelled about 100 INGOs that were viewed as doing more for their expatriate employees' salaries than for Rwanda's welfare.<sup>192</sup>

When the Government proposed a new NGO law in 2001 that had significant potential to curb the independence of NGOs, the international NGOs failed to make common cause with their local partners, choosing instead to focus on their own parochial interests, such as proposed taxes on expatriate salaries and import duties on INGO vehicles. One leading member of the INGO Network now acknowledges that 'in retrospect, [we] should have had greater involvement in their [the local NGOs'] issues'.

The 2001 law gave the Minister of Local Administration considerable discretion over INGO registration by making registration contingent on '(1) adequacy between planned activities and means availed or expected; (2) the benefit of the activities' impact on the population; (3) the commitment to achieve the proposed objectives'.<sup>193</sup> In 2002, the Government proposed levying a tax as high as 40% on the salaries of expatriates working for INGOs. The INGOs persuaded the Delegation of the European Commission to send a letter to the Minister of Finance expressing its concern, which reads in part:

We believe that an introduction of taxation of expatriate staff could have a negative impact on the level of funding available to Rwanda, since most of the means available for the different projects are allocated by public or private donors.<sup>194</sup>

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<sup>191</sup> Republic of Rwanda, *Working Procedures for Local and International Organisations*, Dec. 1994; *Basic Agreement Between the Government of Rwanda and Non Governmental Organisations*, Dec. 1994.

<sup>192</sup> *Clingendael*, 59.

<sup>193</sup> Law No. 20/2000 of 26/07/2000 Relating to Non-Profit Making Organisations, article 34.

<sup>194</sup> Letter from the Delegation of the European Commission to the Minister of Finance, 3 Sep. 2002.

Over the last three years, the INGO Network and the Government have been negotiating a new agreement to cover INGOs. However, in late summer 2004, the Ministry of Local Administration sent the INGO Network a draft law whose text differed substantially from the agreed draft. In the words of one INGO member, the draft law was an ‘unpleasant surprise’. If passed, it would require annual registration from the Government (rather than registration every five years), which would render INGOs more vulnerable. Also, the proposed law would limit each INGO to two expatriate staff (unless the Government granted exceptions), would grant the Government powers to audit INGOs without providing them a right of notice or response, and would give the Government greater ability to claim ownership over INGO equipment and goods.<sup>195</sup> Tellingly, the draft law imposed 13 obligations on the INGOs and none on the Government (it omitted the six government obligations listed in the draft convention). According to one INGO Network member, the draft law furthered the Rwandan Government’s goal of ‘strengthening its grip on civil society’.

The INGO Network sent a letter to the Minister of Local Administration, expressing concern that the proposed law is ‘markedly different from the Convention document proposal (Draft of Law) on which the joint Technical Committee worked ... during three years or more under the supervision of your Ministry’.<sup>196</sup> The letter continued:

We do not find, in the current text, either the spirit which had characterised the law or the articles that guided the collaboration of the INGOs in their development work in Rwanda and which were the consensus of the discussions between the concerned parties.<sup>197</sup>

In that letter, the INGO Network asked the Minister to return to the negotiating table with the agreed draft text. As of late February 2005, the Minister had not met with the INGO Network representatives. Some INGO members hope that donor governments will step in to pressure the Government if it attempts to pass the draft law. Other observers are less confident, citing the similarities of the draft law to the regulations and laws

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<sup>195</sup> Loi ... Portant Réglementation des Activités des Organisations Non Gouvernementales Internationales Oeuvrant au Rwanda.

<sup>196</sup> Letter from INGO Network to Minister of Local Administration, 20 Sep. 2004.

<sup>197</sup> Ibid.

previously in place and the Government's interest in preventing INGOs from fostering an independent civil society.

#### **IV. Conclusion**

The Rwandan Government has shown little tolerance for INGOs that empower independent civil society actors, particularly human rights defenders, whether directly through collaboration with NGOs like LIPRODHOR, CAURWA, and FOR, or indirectly through strengthening civil society and/or promoting rights-based development. While INGOs need to continue supporting human rights work, they can only do as much as their local partners and local staff are willing to risk. If they are to have any strength as a voice in civil society or offer protection to their local partners, the INGOs need to recognize the importance of maintaining a cohesive front in the face of attacks against both INGOs and local NGOs and to speak out when their local partners are attacked or denied registration.

## 7. The Role of the International Community in Defending Rwanda's Defenders

### I. Introduction: Understanding Donor Passivity in Rwanda

Several international donors, including the United Kingdom, the United States, and the Netherlands, have financed and encouraged local NGOs to engage in civic education, human rights monitoring, and advocacy projects in order to promote good governance and an independent civil society in Rwanda. Those donors also have relied on local defender organisations as an important source of information for their own human rights monitoring and country reporting. Yet, over the past two years, donors have been reluctant to defend those NGOs for fear of antagonizing the Rwandan Government. Donor passivity is largely based on guilt over their failure to prevent or halt the genocide. The Rwandan Government never hesitates to play on that guilt, accusing the North of also having divided Rwandans into Hutu and Tutsi: 'the unity of Rwandans existed before the arrival of white people. The problem came with colonialists who were strong[er] than Rwandans, ... thus, division became part of our culture from then'.<sup>198</sup> During the genocide commemoration in April 2004, President Kagame once again blamed the international community for the genocide: 'We should always bear in mind that genocide, wherever it happens, represents the international community's failure, which I would in fact characterise as deliberate, as convenient failure.'<sup>199</sup>

The donor community's reluctance to criticize the Rwandan Government reflects more than guilt however. First, some donor governments have adopted a realpolitik view that the RPF's continuing authoritarian rule will guarantee stability, at least in the short-term, and that democratization is a long-term process that cannot be rushed. There is a danger, though, that this view 'risks becoming a license for passivity, an excuse for inaction': donors keep "hanging in there", keeping their eye on the prize, even while human rights violations or authoritarianism increase....'<sup>200</sup> Second, the international community is understandably impressed with the Government, which has made enormous strides since the genocide in rebuilding Rwanda, achieving

<sup>198</sup> Ministry of Local Administration, *Civic Education Handbook*, Sep. 2004. For a critique of the RPF's historical revisionism, see Johan Pottier (2002), *Re-imagining Rwanda: Conflict, Survival and Disinformation in the Late Twentieth Century*, chapter 4.

<sup>199</sup> Opening Remarks By His Excellency President Paul Kagame at the Conference on Genocide, Kigali Intercontinental Hotel, 4 Apr. 2004.

<sup>200</sup> Uvin (2004), *Human Rights and Development*, 95-96.

internal security, and, at least until recently, accomplishing steady economic growth. The World Bank recently commended Rwanda's economic recovery.<sup>201</sup> Finally, some donor governments, particularly the United Kingdom, have invested significantly in Rwanda (both in terms of money and prestige), and thus are reluctant to acknowledge the Government's shortcomings.

## II. The Parliamentary Report

The Parliamentary Commission accused the international community of funding divisionism and genocidal ideology through a network of international and local NGOs. That echoed earlier Government attacks on the donor community. In the March 2003 parliamentary debate on the MDR, the vice-president of the MDR Commission accused the international community of using LIPRODHOR to disseminate divisionism.

During the 2003 elections, the Rwandan Government adopted an adversarial stance towards the international community, charging it with encouraging divisionism and biased election reporting – even though international donors gave approximately \$ 7 million for those elections.<sup>202</sup> The pro-government *New Times* accused the United States Ambassador of supporting former Prime Minister Faustin Twagiramungu in the presidential race.<sup>203</sup> After President Kagame handily won the election, he accused the international community of supporting his rival on the basis of ethnicity:

He was living in Belgium and the Belgians sponsored him to come. When he came, the diplomats here took him up. So he really became a foreigner's candidate ... I knew Twagiramungu was being brought to say, well, you man, go there after all you are a Hutu and Hutus need a leader; just go and tell them you are Hutu and they will support you against Kagame.<sup>204</sup>

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<sup>201</sup> Fondation Hirondelle, *World Bank Gives US \$50 Million for Poverty Reduction*, 10 Dec. 2004.

<sup>202</sup> The Rwandan Government also accused the international community of giving less aid for the elections than originally promised. See *Clingendael*, 20-22 (relying on Rwandan Government data).

<sup>203</sup> The *New Times* ran a front-page article whose headline read 'Is [US] Ambassador McMillion Twag[iramungu]'s Campaign Chief?' The article was accompanied by a photograph of Twagiramungu leaving the US Embassy. *The New Times*, 21-24 Aug. 2003, front page.

<sup>204</sup> "'Twagiramungu Tried to Reap Where He Did not Sow', says Kagame", *Monitor*, 28 Aug. 2003.

This statement is particularly surprising given how little the international community criticized the intimidation and lack of transparency that marred the elections.

### III. Responses by Donor Governments

#### A. Overview

In order to understand the responses of various donor governments to the Parliamentary Report, it is first necessary to describe their aid programmes. Donor governments have adopted different approaches to development assistance to Rwanda. The choice often has as much to do with the international policy of the donor government, as with the specifics of its relationship with Rwanda. The UK, EU, and Sweden all provide a significant portion of their aid in the form of direct budgetary support to the Government. Nearly half the Government's 2004 budget consists of budgetary grants.<sup>205</sup> Budgetary support is viewed as a more efficient method for disbursing aid and as a way to give the recipient country more 'ownership' over the aid. It is much more difficult to impose political conditionality on aid given as direct budgetary support. Other donor governments, such as The Netherlands, have determined that Rwanda has not become sufficiently democratic to justify direct budgetary support.

Donor governments are guided by Rwanda's Poverty Reduction Strategy Paper (PRSP), which was finalized in June 2002 after a consultative process involving Government, donors, civil society representatives, and other stakeholders. The PRSP consultative process gave the Rwandan Government 'local ownership' and became the basis for on-going dialogue between donors and Government. In theory, annual progress reports on the PRSP are supposed to provide some measure of accountability if the Government does not move towards the stated goals. One of the priority sectors identified by the PRSP is good governance, which includes human rights and democratization. Not surprisingly, the most recent PRSP report focuses on the Government's accomplishments in human rights:

Efforts have been made over the review period [April 2003-April 2004] to ensure the effective independence of the NHRC [National Human Rights Commission] through being directly accountable to

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<sup>205</sup> The Economist Intelligence Unit, *Country Report: Rwanda*, Nov. 2004.

Parliament. Further, Rwanda is making great progress in ratifying human rights instruments such as the Rights of the Child. All mayors and vice-mayors have been trained in children and women's rights and conflict prevention and resolution. The population is being educated about children's rights and punishments for infractions and 14,340 women and children have received legal assistance from NGOs....<sup>206</sup>

Despite the supposed input from donors and stakeholders, it is clear that the PRSP's reporting mechanism is not a particularly effective instrument for measuring Rwanda's compliance with its commitments to good governance and human rights.

The UK, the Netherlands, and Sweden have signed bilateral Memorandums of Understandings (MoUs) with the Rwandan Government to guide their development assistance. Although the Rwandan Government has made commitments to good governance and human rights under those MoUs, the three donor governments have been reluctant to define those goals in terms of precise benchmarks for fear the Rwandan Government would not meet them.

The use of very concrete and measurable indicators leads to an increase in transparency. What are we going to do if Government is not going to comply with the commitments? Will non-compliance really lead to a breach? ... The advantage of using more general commitments in the MoU is that it would leave more room for dialogue, for discussion.<sup>207</sup>

The application of bilateral MoUs and the PRSP process to minimize accountability was apparent during last year's elections. The donor community gave Rwanda about \$7 million to hold superficially democratic elections, but then largely turned a blind eye to the widespread fraud, intimidation, and human rights violations committed by the RPF to ensure its election victory – even though those problems were thoroughly documented and reported by the European Union's own election observer mission. If donors were unwilling to cry foul over flawed elections that they had helped finance, the Rwandan Government clearly calculated that it did

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<sup>206</sup> Ministry of Finance, *Poverty Reduction Strategy Annual Progress Report*, Sep. 2004.

<sup>207</sup> *Points for Discussion – Joint Memorandum of Understanding*, Sep. 2004.

not have much to fear from donors when it came time to suppress human rights defenders.

## **B. European Union**

The European Union currently provides Rwanda with €124 million in aid, including €50 million in budgetary support. Ten percent of the aid budget is for ‘non-focal areas’, which include governance and civil society. The EU has funded human rights monitoring and education by several Rwandan NGOs. For example, it funded LIPRODHOR to monitor the human rights situation during the 2003 election period. While praising the Rwandan Government for the advances it has made, the EU’s 2004 Mid-Term Review characterized the Government’s performance on good governance as ‘insufficient’ and reminded Rwanda of its obligations regarding democratization. The Review proposed establishing political benchmarks and did not recommend any increase in funding.<sup>208</sup>

The European Union did not respond publicly to the Parliamentary Report until early October 2004 – more than three months after the report was issued – partly because it was waiting for the Rwandan Government’s official response to the report (which only came in mid-September).<sup>209</sup> The EU’s statement read in part:

The EU regrets that the Government of Rwanda has not unequivocally stated that those mentioned in the parliamentary report are presumed innocent until the contrary is proven. Individuals have been publicly accused on the basis of information that is insufficiently substantiated. The report therefore has an intimidating impact.

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The EU is however concerned at the liberal use of the terms ‘ideology of genocide’ and ‘divisionism’ and in this regard would impress upon the Government the need to clarify the definition of

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<sup>208</sup> European Union, *Mid Term Review of 2004*.

<sup>209</sup> The British and Dutch Ambassadors and the Swiss Charge had done a demarche with the Minister of Foreign Affairs on 31 Aug. 2004.

these terms and how they relate to the laws on discrimination and sectarianism and to the freedom of speech in general.<sup>210</sup>

The EU also called on the authorities to complete speedy investigations of those named in the report.

The Rwandan Government issued a public response to the EU Declaration, which it then publicized widely in the state media. The Government claimed the report never questioned the presumption of innocence, adding that ‘in Rwanda like elsewhere, this principle does not mean that the identity of a suspect must be kept secret until he or she is proven guilty’.<sup>211</sup> The Government response went on to note that

[T]he terms ‘ideology of genocide’ and ‘divisionism’ are approximate translations of the following Kinyarwanda terms ... [and the] Rwandan people are clear about the meaning and the content of these Kinyarwanda terms.<sup>212</sup>

Reacting to the EU Declaration, President Kagame stated:

I wish to say that genocide and divisionism are not Kinyarwanda words and I don’t know what it means in their [the EU] context. I suggest that they explain it themselves. What we should be asked is whether what we are doing for the country is good or not, and we will be ready to explain this.<sup>213</sup>

The EU Declaration also ‘urge[d] the Government to open up political space and to allow expression of different views and perspectives’.<sup>214</sup> In its response, the Rwandan Government raised the spectre of hate media and the international community’s failure to stop the genocide:

The Government of Rwanda wishes to remind that in 1994 some governments in the western world were begged to use their technological advances to silence the infamous Radio Télévision

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<sup>210</sup> European Union, *Declaration by the Presidency on behalf of the European Union on the Statement of the Rwandan Government to the Parliamentary Report on Genocidal Ideology*, 6 Oct. 2004 [hereafter ‘EU Declaration’].

<sup>211</sup> Ministry of Foreign Affairs, *Note Verbale*, 13 Oct. 2004, para. 3 [hereafter *Note Verbale*].

<sup>212</sup> *Note Verbale*, para. 4.

<sup>213</sup> ‘Genocide Ideology’ not Kinyarwanda – Kagame, *The New Times*, 25-26 Oct. 2004, 1.

<sup>214</sup> EU Declaration, para. 5.

des Mille Collines (RTL) which was calling for the extermination of Tutsis. The unequivocal answer was that silencing this terrible radio would be an infringement to the freedom of expression and/or press of those who were using RTL. Rwanda cannot subscribe to this liberal interpretation of the freedom of expression and freedom of the press.<sup>215</sup>

The Rwandan Government's response to the EU Declaration does not leave room for much hope that it will grant more space to independent civil society and media.

### C. United States

The United States, Rwanda's second largest bilateral donor, provides aid in the form of programme support, reflecting an overall policy that budgetary support lacks sufficient accountability. In 2004, the US gave \$48.1 million in aid, which will increase to \$54.2 million in 2005, largely as a result of additional funding for HIV/AIDS programmes. USAID has reduced its budget for democracy and governance programmes over the past few years: it only spent \$3.4 million (7% of its budget) on that sector in 2004. USAID funded civic education through the Civil Society Strengthening Project implemented by CARE.

The United States has been openly critical of the Rwandan Government's human rights violations. For example, the State Department's annual human rights report for 2004 concluded, 'The Government's human rights record remained poor, and the Government continued to commit serious abuses.'<sup>216</sup> A year earlier, the State Department described the situation for human rights defenders at some length:

The Government tended to be suspicious of local and international human rights observers, particularly with regard to accusations against the Government during the campaign periods... The Government harassed those that attempted to report and act more independently...

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<sup>215</sup> *Note Verbale*, para. 5.

<sup>216</sup> *US State Department Report 2004*, introduction.

The Government directly threatened the domestic human rights NGO LIPRODHOR, by publicly criticizing its reports and trying to block international funding for its activities...

There were a few reports of the forcible dispersal or prevention of NGO meetings during the year. Independent journalists and human rights workers said police regularly harassed them in the weeks prior to presidential elections. In addition, the Government forced some NGOs to suspend their programmes during the elections in August and September. It also attempted to confiscate NGO vehicles just prior to the campaign period, and at one point, Government officials tried to infiltrate NGO meetings.<sup>217</sup>

In addition, a Rwandan employee of the US Embassy was kept in pre-trial detention for almost two years before being convicted in June 2004 of associating with former President Bizimungu's banned political party. After the US Ambassador criticized the Government's election year abuses, particularly the April 2003 disappearances, Government officials retaliated by refusing to meet with her and other Embassy staff.

Such human rights violations did not prevent then US Deputy Secretary of State for African Affairs, Walter Kansteiner, from praising Rwanda's elections on state radio, where he called them 'an example for the rest of African countries'.<sup>218</sup> He further pledged to reduce Rwanda's debt burden at the next IMF meeting.<sup>219</sup> That stance appears to be part of a tacit *quid pro quo*. Rwanda is a member of the 'Coalition of the Willing' in Iraq and has signed a so-called 'Article 98 Agreement' with the United States, undertaking that neither country would transfer the other's personnel to the International Criminal Court. In October 2004, the US military provided training for Rwandan troops who are expected to reinforce an African Union peacekeeping force in Darfur. Overextended by its commitments in Afghanistan and Iraq, and unwilling to risk its own soldiers in humanitarian operations, the United States now sees the Rwandan army as a potential force for humanitarian interventions in Africa.

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<sup>217</sup> US State Department, *Rwanda: Country Reports on Human Rights Practices – 2003*, 25 Feb. 2004, <<http://www.state.gov/g/drl/rls/hrrpt/2003/27744.htm>>.

<sup>218</sup> Radio Rwanda, 15 Oct., 2003 (morning broadcast).

<sup>219</sup> Ibid.

The United States has made no public statement about the Parliamentary Report, nor did it align itself with the EU Declaration. In an October 2004 interview, Henderson Patrick, USAID Mission Director and Acting Ambassador for the United States, explained, ‘CARE’s approach was quiet diplomacy ... we took our cue from them’. Patrick saw the report as ‘a blip on the screen... just a barometer of the people’ who were feeling insecure due to the killings of genocide survivors. He said he understood killings were occurring on a daily basis as he had read about them in the (pro-government) *New Times* and then confirmed it with the Parliament’s head of security. He emphasized the need to look at Rwanda’s development ‘as a process’:

Economically the Rwandan Government is really trying to move forward and then democracy will follow as they become more educated and wealthier ... a lot of people like to report that Rwanda is becoming a dictatorship ... [but it is important] to understand where Rwanda is coming from. Take the killings nationally, and incursions from the Congo. The US put pressure on the Government not to go into the Congo so they can’t pursue their enemies there ... so they are in a very defensive posture ... so don’t expect too much.<sup>220</sup>

There is little prospect that United States policy toward Rwanda will change in the short to medium term.

#### **D. United Kingdom**

As Rwanda’s largest bilateral donor, the UK provided £42 million in aid for 2004/5 and expects to give £45 million in 2005/6. Two-thirds of that aid is given in direct budgetary support. The UK and Rwanda signed a bilateral Memorandum of Understanding in 1999, which was renewed in early 2004. The MoU commits the Rwandan Government, among other things, to promote human rights and democratization.<sup>221</sup> In its December 2003 Country Assistance Plan, DFID made clear it would give Rwanda the benefit of the doubt when it comes to ‘alleged’ human rights violations.<sup>222</sup>

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<sup>220</sup> In mid-2002, the US threatened to hold up IMF financing for Rwanda over concerns about human rights abuses committed by Rwandan troops in the eastern Democratic Republic of Congo.

<sup>221</sup> The UK uses an annual independent review of the MoU as the basis for partnership talks with the Rwandan government. Those reviews are kept confidential.

<sup>222</sup> DFID, *Rwanda: Country Assistance Plan 2003-2006*, Dec. 2003, <<http://www.dfid.gov.uk>>.

The UK will continue to argue that the international community should take action only on the basis of hard evidence, not on rumour and speculation. We have urged the Government to investigate all allegations of human rights abuses and illegal exploitation of natural resources [in the Democratic Republic of Congo], publish the findings and take action against those responsible... We believe that the Government as a whole remains committed to progressively opening up space for legitimate political debate and freedom of expression. However, we recognize that the degree of commitment depends on continuing progress towards securing Rwanda's external security and managing internal political risk, and that it will therefore be vital to support those individuals and parts of Government which are most directly responsible for, and committed to, delivering this change.<sup>223</sup>

Elsewhere in the same document, DFID offered a less optimistic appraisal: 'We recognize that the progressive champions of change are relatively small in number.'<sup>224</sup> While touting the value of its critical dialogue with the Government, DFID nonetheless recognized 'we have less influence on issues which are more politically sensitive, for example, the treatment of the independent media, the reform of the justice system or the operation of political parties'.<sup>225</sup>

To balance its largely state-centric approach, DFID's Country Assistance Plan also set forth a pledge to assist civil society.

...[W]e are committed to developing a closer relationship with organisations outside of government and to promoting greater government accountability and more effective dialogue between government and civil society. We believe that this is critical to achieving national and social transformation in Rwanda, providing checks and counterweights to authoritarian governance, creating incentives for reform and enabling greater plurality in decision-making.<sup>226</sup>

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<sup>223</sup> DFID, *Rwanda: Country Assistance Plan 2003-2006*, Dec. 2003, <<http://www.dfid.gov.uk>>, 12.

<sup>224</sup> *Ibid.* 6.

<sup>225</sup> *Ibid.* 14.

<sup>226</sup> *Ibid.* 15.

DFID designed a civil society programme intended to help Rwandans advocate for their rights and ‘enhance [the] capacity of Rwandan institutions to promote and sustain processes of rights-based change’.<sup>227</sup> DFID had concluded that in Rwanda there is

[A]n absence of critical dialogue, including effective advocacy, between government and its citizens on policy and implementation issues and inadequate representation of citizen’s rights, needs, entitlements and perspectives in governance.<sup>228</sup>

In early 2004, DFID’s new Senior Social Development Adviser, Judy Walker, scrapped that civil society programme. As she explained in an October 2004 interview, she cancelled the programme in part because it required DFID to ‘actively pursue human rights’ – something that was ‘too confrontational’.

### **E. The Netherlands**

The Netherlands became Rwanda’s largest donor following the genocide, providing almost \$47 million in 1995. However, the level of aid dropped significantly due to political pressure from Dutch NGOs and Dutch parliamentarians concerned about human rights violations. After reaching a low of €15 million in 2001, the Dutch Government now provides only €17 million in programme support. No budgetary support is given by the Netherlands. As a Dutch official explained, ‘From a technical perspective, we could give budget support, but the political reality... makes it out of the question. Our Parliament would never allow it.’ The Netherlands has a bilateral MoU with Rwanda, which commits Rwanda to good governance and human rights. For the past several years, a coalition of Dutch NGOs (including NOVIB (Dutch Oxfam) and various church organisations) has prepared an annual ‘shadow report’ criticizing Rwanda’s failure to meet its obligations under the MoU.<sup>229</sup> Of all the donors, the Dutch Government has been the most supportive of independent civil society and media in Rwanda,

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<sup>227</sup> DFID, *Draft Project Concept Note: Promoting the Rights of Citizenship Programme*, para. 1.2 [hereafter DFID, *Draft Project Concept Note*].

<sup>228</sup> DFID, *Draft Project Concept Note*, para. 4.1. Similarly, the Country Assistance Plan noted: ‘The poor feel powerless and excluded from decisions that affect them, citing a lack of consultation by those in power.’ DFID, *Country Assistance Plan*, 7.

<sup>229</sup> IRIN, *Rwanda: Dutch NGOs Urge Donors to Freeze Aid to Kigali*, 19 Feb. 2004.

particularly LIPRODHOR, FOR, and *Umuseso*. In part, that commitment reflects political pressure from Dutch NGOs and the Dutch Parliament.

The Netherlands was the only donor government that publicly applied political conditionality to the elections. In August 2003, during the presidential campaign, the Dutch Government announced it would not provide €250,000 for the presidential and parliamentary elections because of the Rwandan Government's failure to explain the disappearances in April and to define divisionism. The Government then hastily produced reports on the disappearances, though they were too superficial to satisfy the Dutch. In retrospect, a Dutch official stated: 'I doubt it had impact. I'm pessimistic about our influence on [the Rwandan] Government – it was only €250,000. [Donor] money has increased after the elections ... so why bother about the €250,000?'

The Parliamentary Commission named a Rwandan employee of the Dutch Embassy, accusing him of helping to finance two political opponents in exile in The Netherlands who the report had linked to FOR. A delegation of three Dutch parliamentarians who visited Rwanda in mid-August stated its concern that the Dutch Government had not reacted more strongly to that accusation: 'The Delegation is surprised by the fact that an employee of the Dutch embassy is accused and mentioned by name in the report and that the Dutch Government has not publicly expressed its alarm at the report.'<sup>230</sup> The delegation noted that The Netherlands, like other donor governments, decided 'not to be openly critical until the Rwandan Government has itself responded'.<sup>231</sup> Given the lack of positive results from earlier rounds of quiet diplomacy, the parliamentary delegation held out little hope for success with that approach. Instead, it recommended an increase in pressure on the Rwandan Government, using both quiet diplomacy and open critical dialogue. The delegation stated that, without further improvement in the areas of good governance and human rights, 'the Dutch Government must in principle be prepared to assess its partnership with Rwanda in a very critical light'.<sup>232</sup> It also rejected the idea of budgetary support on account of the Rwandan Government's poor performance on human rights.

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<sup>230</sup> *Report of Findings: Parliamentary Visit to the African Great Lakes, 14-22 August 2004.*

<sup>231</sup> *Ibid.*

<sup>232</sup> *Ibid.*

## F. Belgium

Belgium currently provides €75 million (over a three year period) in programme support, concentrated in the health and justice sectors. While the Rwandan Government has pushed for budgetary support, Belgium will only consider sector support, reflecting its worldwide aid policy.<sup>233</sup> Belgium supports civil society directly by funding local NGOs, including LIPRODHOR, and indirectly by funding micro-projects and Belgian NGOs like 11.11.11.

After the EU Election Observer Mission issued a communiqué noting fraud and irregularities in the legislative elections in October 2003, the then Minister of Foreign Affairs, Louis Michel, hastily distanced himself. Michel stated the elections had ‘produced results that are indisputably not contestable’.<sup>234</sup> At the same time, the Belgian Minister of Cooperation signed new commitments of \$15.6 million with the Rwandan Government for the health and education sectors. The Belgian Government did not take any public stand on the Parliamentary Report, apart from its involvement in the EU Declaration.

## G. Sweden

Sweden, which only arrived in Rwanda after the genocide, currently gives approximately €12 million a year, a third of which is general budgetary support. In its 2002 MoU with Sweden, the Rwandan Government pledged to promote democratic development and respect for human rights.<sup>235</sup>

As of October 2004, the Swedish Government had not had any dialogue with its Rwandan counterpart about the Parliamentary Report. Arne Ström, the new Councillor at the Swedish Embassy, stated that the Embassy had ‘raised issues of human rights and democracy within MINALOC [the Ministry of Local Administration] and the police but not yet with the Government’. Nor has the Swedish Embassy engaged in dialogue with the local partners it supports, some of whom were named in the report. Strom noted, ‘The

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<sup>233</sup> Chambre des Représentants de Belgique, *Note de Politique Générale du Ministre de la Coopération au Développement pour l'Année Budgétaire 2004*.

<sup>234</sup> Agence France Presse, *Louis Michel Dément Tout ‘Désaveu’ des Observateurs de l'UE au Rwanda*, 10 Oct. 2003; Agence France Presse, *Rwanda-élections: la Belgique Désavoue les Observateurs de l'UE*, 9 Oct. 2003.

<sup>235</sup> The Swedish Government publishes annual reports on Rwanda’s human rights progress, but those reports are only available in Swedish.

attitude of the Swedish Government is the same as before the report was released, the report just confirmed our suspicions.’ He further stated that ‘An increase in support is not foreseen unless there are clear improvements in certain [variables]... [such as] Rwanda’s involvement in the DRC, freedom of speech and freedom of association.’

## H. Canada

Canada has a long history in Rwanda but its aid level is now quite low: only CA\$10-11 million per year in programme support. The process for awarding budgetary support in Canada is difficult and Canada does not consider Rwanda ready for budgetary support. Canada assists civil society through a capacity-building project implemented by CECI, a regional NGO.

Canada has made no public statement about the Parliamentary Report and it did not align itself with the EU statement. Julie Fournier of the Canadian Embassy explained that Canada preferred to discuss issues with the Government privately because it has a very small presence in Rwanda. She further stated, ‘just talking about the report is perhaps not the right approach’. She added, ‘It is important to be open and receptive to the Rwandan Government’s perspective’.

## IV. International Donors and their Local Partners

International donor assistance to human rights NGOs may have unwittingly exacerbated the tensions between those NGOs and the Rwandan Government, as well as their competitors in civil society. In mid-2003, Peter Uvin warned that

An exclusive focus on a few human rights organisations may be counter-productive, as it causes antagonism against them, distracts from their own weaknesses (thus making them more vulnerable to eventual implosion), and allows the destruction of civil society elsewhere to continue outside of the spotlight directed only on human rights organisations.<sup>236</sup>

The *Clingendael* study reached a similar conclusion:

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<sup>236</sup> Peter Uvin, *Wake Up! Some Policy Proposals for the International Community*, Jun. 2003.

As the administrative facilities provided by the Government play off against the financial facilities granted by international donors, a potentially dangerous situation is created... by creating two sets of civil society organisations, one viewed by some as ‘working for the country’ and another ‘working for foreign interests’. Various actors have expressed that this situation has given rise to suspicions about donors’ hidden agendas.<sup>237</sup>

A representative of a survivors’ organisation complained, ‘Why do you have to accuse the Government to get funds? IBUKA gets fewer funds because we are not always critiquing the Government.’

Many of the local NGOs named in the Parliamentary Report carried out programmes funded and encouraged by international donors. For example, a member of SDA-IRIBA stated: ‘We were placed among the people who spread genocidal ideology simply because we do civic education with CARE and with the financing of USAID.’<sup>238</sup> In the wake of the Parliamentary Report, international donors mostly failed to publicly defend their local partners. As one observer noted, ‘What kind of bargain are we [the international community] offering? How can we be trusted?’

Belgium, The Netherlands, and the United Kingdom had supported LIPRODHOR programmes. A Belgian diplomat reportedly stated that the LIPRODHOR members who fled Rwanda should return, reasoning that if they were innocent they faced no risk of persecution. DFID’s Judy Walker expressed the view that some Rwandans were using the accusations of divisionism to create asylum claims. She stated she had heard a rumour that a group of students from an organisation called RIPRODHOR were trying to claim asylum in Belgium. When it was pointed out that RIPRODHOR is an international NGO based in Lyon, France and distinct from LIPRODHOR, she dismissed the difference, stating that ‘r’s and l’s are interchangeable in Rwanda’.

Some Dutch NGOs criticized The Netherlands for not acting quickly to grant asylum to the LIPRODHOR members who fled to Kampala. In turn, Dutch officials accused the Dutch NGOs of making unrealistic demands:

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<sup>237</sup> *Clingendael*, 60.

<sup>238</sup> The Parliamentary Report only named two of CARE’s ten implementing partners (SDA-Iriba and LIPRODHOR) because the other partners are closer to the Government.

They didn't apply for asylum. They never applied for a visa. They just discussed with [our Kampala embassy]. ... There's a formal policy: they should go to UNHCR and ask for refugee status. But they did not do that. ... Dutch NGOs expected us to say 'Dear LIPRODHOR members, here, have a visa'.

In October 2004, one exiled LIPRODHOR activist in Kampala expressed frustration with the international community:

Reports are released [from international organisations] and no action. Amnesty releases a report from the UK, but the UK is supporting the Government of Rwanda... [T]he Government of Rwanda is very powerful. We [the human rights defenders] are individuals. We don't represent anything now... People must know there is nothing, only the interests of governments.

After more than five months, the LIPRODHOR exiles eventually gained asylum in several European countries.

## **V. Conclusion: Which Way Forward?**

Writing in mid-2003, Peter Uvin diagnosed the problem with international donor assistance in the area of good governance under the PRSP :

[It is] informed by a vision of a competent, efficient, predictable, and transparent state – a notion similar to the rule of law. This work is to be lauded. It suffers from three limitations, however:

- It is focused too much only on the institutions of the state in isolation of (civil) society.
- It has a limited understanding of peculiar Rwandan factors such as the authoritarianism that prevails in both the state and society, the deep distrust, the very limited local capacity, etc.
- It focuses mainly on economics and economic policy, neglecting social and political dimensions

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The international community is currently the only potential counter-power in current Rwanda, but it does not fulfil that function. Small, un-coordinated projects for good governance,

elections, and the like, risk all being little more than marginal and symbolical. Occasional disjointed and informal pressures without much follow-up make little difference.<sup>239</sup>

Uvin concluded that international donors had to convey a key bottom line to the Rwandan Government: ‘a broader space for civil society needs to be allowed’,<sup>240</sup> Sadly, the international community failed to heed Uvin’s advice, and now, two years later, the space for civil society is narrower than it has ever been since the genocide. One representative of a donor government recently wondered: ‘Are there still any change agents in this society? That’s the big question... I really don’t know... with whom we should still work.’

Over the past two years, donor responses to the Rwandan Government’s human rights violations and repression of defenders have been uncoordinated, inconsistent, and confusing. That has only emboldened the Rwandan Government. As one donor government official acknowledged:

During our silent diplomacy interventions [concerning the Parliamentary Commission Report], [we asked] how can you accuse people based on information that was very superficial? We said it many, many times. Now MINEDUC [the Ministry of Education] comes out with its report and reads out the names [of accused] in the name of ‘transparency’. Our message didn’t come across.

Donor governments need to hold the Rwandan Government accountable for failing to live up to its own commitments on good governance and human rights. Without that, there is a real danger that international donors may wind up ‘aiding violence’ in the future by ignoring human rights abuses and repression of defenders in the present, much as they did in the years preceding the genocide.<sup>241</sup>

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<sup>239</sup> Peter Uvin (2003), *Wake Up! Some Policy Proposals for the International Community in Rwanda*, 3-4.

<sup>240</sup> *Ibid.* 4.

<sup>241</sup> Peter Uvin (1998), *Aiding Violence: The Development Enterprise in Rwanda*, chapter 5.



## Appendix I

### **United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**

#### **General Assembly resolution 53/144**

*The General Assembly,*

*Reaffirming* the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

*Taking note* of Commission on Human Rights resolution 1998/7 of 3 April 1998, See *Official Records of the Economic and Social Council, 1998, Supplement No. 3 (E/1998/23)*, chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

*Taking note also* of Economic and Social Council resolution 1998/33 of 30 July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

*Conscious* of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. *Adopts* the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. *Invites* Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*.

*85th plenary meeting*  
*9 December 1998*

**ANNEX****Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**

*The General Assembly,*

*Reaffirming* the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

*Reaffirming also* the importance of the Universal Declaration of Human Rights<sup>2</sup> and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. As basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

*Stressing* that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

*Acknowledging* the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

*Recognizing* the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

*Reiterating* that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

*Stressing* that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

*Recognizing* the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

*Declares:*

#### *Article 1*

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

#### *Article 2*

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

#### *Article 3*

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental

freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

*Article 4*

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights<sup>3</sup> and other international instruments and commitments applicable in this field.

*Article 5*

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

*Article 6*

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

*Article 7*

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

*Article 8*

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

*Article 9*

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration; everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental

freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

#### *Article 10*

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

#### *Article 11*

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

#### *Article 12*

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

### *Article 13*

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

### *Article 14*

1. The State has the responsibility to take legislative, judicial, and administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

### *Article 15*

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

#### *Article 16*

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

#### *Article 17*

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

#### *Article 18*

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

*Article 19*

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

*Article 20*

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

## Appendix II

In August 2000, Ms. Hina Jilani was asked by Secretary General Kofi Annan to become the first holder of the position of Special Representative of the Secretary General on human rights defenders, in accordance with the provisions of Commission on Human Rights resolution E/CN.4/RES/2000/61, of 26 April 2000. Ms. Jilani's initial remit of 3 years was renewed by a subsequent Commission resolution in April 2003 (E/CN.4/RES/2003/64).

Hina Jilani is an Advocate of the Supreme Court of Pakistan and has been a human rights defender for many years, working in particular in favour of the rights of women, minorities and children. Ms. Jilani was a co-founder of the first all-women law firm in Pakistan in 1980. She also founded Pakistan's first legal aid center in 1986. She is based in Lahore, Pakistan.

Human rights defenders in the US and around the world can make complaints to the Special Representative. The procedure for making complaints is on the Special Representative's webpage <<http://www.unhchr.ch/defenders/complaints.htm>>.

The UN Human Rights Defenders Office can be contacted directly:

UN Special Representative on human rights defenders  
Office of the High Commissioner of Human Rights

Palais Wilson  
8-14 Avenue de la Paix  
1211 Geneva 10, Switzerland  
Fax: +41 22 917 9006

Telephone: (41-22) 917-9000 Callers should ask for the staff supporting the mandate of the Special Representative on human rights defenders.

[urgent-action@ohchr.org](mailto:urgent-action@ohchr.org)

The text of the e-mail should refer to the human rights defenders mandate.