

**COI QUERY**

Country of Origin	Rwanda
Main subject	Inhuman or degrading treatment against returnees
Question(s)	Information on documented cases of individuals previously reported by the police in Rwanda who, after escaping from the country, suffered inhuman or degrading treatment or violations of human rights upon their return
Date of completion	10 December 2018
Query Code	Q126
Contributing EU+ COI units (if applicable)	

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The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.

The information in the response does not necessarily reflect the opinion of EASO and makes no political statement whatsoever.

The target audience is caseworkers, COI researchers, policy makers, and decision making authorities. The answer was finalised on the 10 December 2018. Any event taking place after this date is not included in this answer.



COI QUERY RESPONSE

Information on documented cases of individuals previously reported by the police in Rwanda who, after leaving the country, suffered inhuman or degrading treatment or violations of human rights upon their return (2016-2018)

Legal framework

Rwanda is party to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ and ratified the Optional Protocol to this Convention in June 2015². Rwanda also ratified the International Covenant on Civil and Political Rights (ICCPR) on 16 April 1975³, and the African Charter on Human and People's Rights on 15 July 1983⁴. Both treaties prohibit arbitrary arrest and detention⁵.

Furthermore, there are legal provisions in the Rwandan constitution and law which prohibit torture or physical abuse, or cruel, inhuman or degrading treatment. Article 14 (Right to physical and mental integrity) of the constitution reads:

‘Everyone has the right to physical and mental integrity.

No one shall be subjected to torture or physical abuse, or cruel, inhuman or degrading treatment.

No one shall be subjected to experimentation without his or her informed consent.

Modalities of the consent and experiments are determined by law⁶.

In February 2016, Rwanda announced that individuals and non-governmental organisations can no longer directly file complaints with the African Court on Human and Peoples' Rights on the grounds that such remedy was being exploited by convicted genocide fugitives⁷.

In June 2018 a new penal code passed the Parliament⁸. Article 112 (Torture) of the penal code says that:

¹ UN Treaty Collection, 9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, status as at: 8 November 2018, [url](#)

² UN Treaty Collection, 9. b Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, status as at: 8 November 2018, [url](#)

³ UN Treaty Collection, 4. International Covenant on Civil and Political Rights, status as at: 9 November 2018, [url](#)

⁴ African Commission on Human and Peoples' Rights, Ratification Table: African Charter on Human and Peoples' Rights, n.d., [url](#)

⁵ African Commission on Human and Peoples' Rights, African Charter on Human and Peoples' Rights, n.d., [url](#); UN OHCHR, International Covenant on Civil and Political Rights, last updated 29 October 2018, [url](#)

⁶ Rwanda, The Constitution of the Republic of Rwanda of 2003 revised in 2015, Official Gazette n° Special of 24 December 2015, [url](#) p. 37

⁷ Human Rights Watch, Rwanda: Politically Closed Elections, 18 August 2017, [url](#)

⁸ New Times (The), Parliament passes new penal code, 29 June 2018, [url](#)



‘For the purpose of this Law, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind.

Any person who commits any of the offences referred to under Paragraph One of this Article commits an offence’.

The crime of torture is imprescriptible⁹.

Documented cases of inhuman or degrading treatment or violations of human rights after returning to Rwanda (2016-2018)

Among all sources consulted and within the timeframe allocated to respond to this Query, no cases could be traced in which people, previously reported by the police, faced inhuman or degrading treatment or violations of human rights after returning to Rwanda.

Nonetheless, the below information could be of relevance.

In May 2016, The UN Human Rights Committee reported regarding unlawful detention and allegations of torture and ill-treatment:

‘While noting the State party’s denial of unlawful detention practices, the Committee remains concerned about several reports that individuals have been held unlawfully by the military and the police in unofficial detention centres, sometimes incommunicado and, in some cases, before being transferred to official places of detention. It is also concerned at allegations that torture and ill-treatment have been practised in these places as a means of eliciting confessions. The Committee regrets the lack of information on measures taken to investigate these allegations and the absence of statistical data on investigations, prosecutions and convictions relating to cases of torture and ill-treatment. It is further concerned about the maximum period of time that a person may be in police custody before being presented to the judge, which may not be in compliance with the [International] Covenant [on Civil and Political Rights] (arts. 7, 9 and 14)’¹⁰.

On 6 March 2017, journalist and opposition activist John Ndabarasa reappeared in Kigali after he was missing for six months. He told journalists that he had fled the country, but later he decided to return voluntarily¹¹. According to Human Rights Watch, ‘The story raised a lot of suspicion’ because they already had ‘documented numerous cases where former detainees were forced to make false claims

⁹ Rwanda, Law N°68/2018 of 30 August 2018 determining offences and penalties in general, Official Gazette no. Special of 27 September 2018, [url](#) pp. 112-113

¹⁰ UN Human Rights Committee, Concluding observations on the fourth periodic report of Rwanda, 2 May 2016, [url](#) p. 4

¹¹ Human Rights Watch, World Report 2018 - Rwanda, 18 January 2018, [url](#)

following months of illegal, secret detention and torture'¹². Furthermore, Human Rights Watch reported that it was unclear whether Ndabarasa was missing due to his activities as a journalist, or because of the fact that he is a relative to Joel Mutabazi. The latter was a former bodyguard of the country's president and forcibly returned from Uganda to Rwanda in 2013. After his return he was sentenced to life imprisonment in October 2014 for 'security-related offences'¹³.

In July 2017, Human Rights Watch reported that at least 37 suspected petty offenders were executed by security forces in Rwanda's Western Province between July 2016 and March 2017. Although most people were shot by the military, in some cases the police were involved as well. 'Local authorities, including law enforcement officials, threatened some who dared to ask questions' concerning the killings¹⁴. In a report, published in October 2017, Rwanda's National Commission for Human Rights (NCHR) responded that the 'content of the report is inaccurate and factually incorrect given that some people reportedly executed in the Human Rights Watch report are alive'¹⁵. Furthermore, NCHR accused Human Rights Watch that they had paid witnesses for testifying¹⁶.

In September 2017, Human Rights Watch reported that 'Rwandan authorities have arrested, forcibly disappeared, and threatened political opponents since the August 2017 presidential elections'. One of them was a 'would-be independent presidential candidate' and opposition activist Diane Rwigara. Together with her sister, a dual Rwandan and American citizen, and her mother, a dual Rwandan and Belgian citizen, they were arrested on 23 September 2017, after several weeks of intimidation, questioning, and restrictions on their movements. Rwigara was, among other things, accused of 'inciting insurrection' against the Rwandan government¹⁷.

In October 2017, Human Rights Watch published a report on torture and unlawful military detention in Rwanda. In this report, the NGO concluded that, however, 'Allegations of torture and ill-treatment in official civilian prisons have become rare since the mid-2000s', there is 'a parallel circuit of unofficial military detention centers, in which detainees, including civilians, have been subjected to serious violations over many years'¹⁸. In between 2010 and 2017, HRW 'confirmed 104 cases of people who were illegally detained and in many cases tortured or ill-treated in military detention centers in Rwanda'¹⁹.

In December 2017, the UN Committee against Torture raised its concerns about the length of custody in police stations; detainees can be held in police custody for five days, and an additional five days

¹² Human Rights Watch, Rwanda: Opposition Activist Missing, 29 September 2016 (updated 7 march 2017), [url](#)

¹³ Human Rights Watch, Rwanda: Opposition Activist Missing, 29 September 2016 (updated 7 march 2017), [url](#)

¹⁴ Human Rights Watch, "All Thieves Must Be Killed": Extrajudicial Executions in Western Rwanda, 13 July 2017 [url](#) pp. 1-2

¹⁵ National Commission for Human Rights, Report on investigations carried out by The National Commission for Human Rights in Rustiro and Rubavu Districts on the Human Rights Watch (HRW)'s report of July 2017, October 2017, [url](#) p. 25

¹⁶ National Commission for Human Rights, Report on investigations carried out by The National Commission for Human Rights in Rustiro and Rubavu Districts on the Human Rights Watch (HRW)'s report of July 2017, October 2017, [url](#) p. 26

¹⁷ Human Rights Watch, Rwanda: Post-Election Political Crackdown, 28 September 2017, [url](#)

¹⁸ Human Rights Watch, "We Will Force You to Confess": Torture and Unlawful Military Detention in Rwanda, 10 October 2017, [url](#) p. 4

¹⁹ Human Rights Watch, "We Will Force You to Confess": Torture and Unlawful Military Detention in Rwanda, 10 October 2017, [url](#) p. 2



before they are brought before a judge. Furthermore, the Committee expressed its 'concern over consistent reports that the period of police custody is still not well recorded'²⁰.

In January 2018, Freedom House assessed Rwanda as not free, based on political rights and civil liberties ratings. Furthermore, it reported that 'ordinary criminal suspects and political detainees are routinely subjected to torture and other ill-treatment in custody'²¹.

In January 2018, Human Rights Watch reported:

'People accused of crimes against state security continued to be arrested and held unlawfully in military camps. Many people held in these camps were tortured in an attempt to force them to confess or accuse others. Authorities continued to round up street vendors, sex workers, street children, and other poor people and detained them in so-called transit centers across the country. Conditions in these centers are harsh and inhumane, and beatings are common'²².

In February 2018, Amnesty International reported:

'The UN Subcommittee on Prevention of Torture suspended its visit to Rwanda in October [2017] citing obstructions by the authorities, including limitations on access to places of detention and confidentiality of some interviews. The head of delegation reported that many of those interviewed expressed fear of reprisals. The Subcommittee suspended visits to only three countries in the past 10 years'²³.

In April 2018, the US Department of State stated in their annual human rights that there 'were numerous reports police at times beat newly arrested suspects to obtain confessions or instructed other inmates to beat'²⁴. On the other hand, 'the government occasionally took steps to prosecute or punish officials who committed abuses, including within the security services, but impunity involving some civilian officials and some members of the SSF [state security forces] was a problem'²⁵.

Furthermore, the report stated that 'the constitution and law prohibit arbitrary arrest and detention, but SSF personnel regularly arrested and detained persons arbitrarily and without due process'²⁶. Also 'there were numerous reports that local officials and the SSF briefly detained some individuals who disagreed publicly with government decisions or policies. Some opposition leaders and government critics faced indictment under broadly applied charges of genocide incitement, genocide denial,

²⁰ UN Committee against Torture, Concluding observations on the second periodic report of Rwanda, 21 December 2017, [url](#) p. 3

²¹ Freedom House, Rwanda – Country Report, 16 January 2018, [url](#)

²² Human Rights Watch, World Report 2018 - Rwanda, 18 January 2018, [url](#)

²³ Amnesty International, Amnesty International Report 2017/18 - Rwanda, 22 February 2018, [url](#)

²⁴ USDoS, Country Report on Human Practices 2017 – Rwanda, 20 April 2018, [url](#) p. 4

²⁵ USDoS, Country Report on Human Practices 2017 – Rwanda, 20 April 2018, [url](#) p. 1

²⁶ USDoS, Country Report on Human Practices 2017 – Rwanda, 20 April 2018, [url](#) p. 8



inciting insurrection or rebellion, or attempting to overthrow the government'²⁷. In relation to trial procedures, it reported that 'the SSF coerced suspects into confessing guilt in security-related cases'²⁸.

In July 2018, the UN Subcommittee on Prevention of Torture decided to terminate its visit to Rwanda, which was suspended in October 2017 (see above), due to a lack of cooperation from the government. It was the first time in 11 years that the Subcommittee had to terminate a visit before its completion. According to the Subcommittee, 'There was no realistic prospect of the visit being successfully resumed and concluded within a reasonable timeframe'²⁹.

Early October 2018, the aforementioned Diane Rwigara was released on bail after spending more than one year in jail. According to Rwigara, 'the charges against her are politically motivated after she spoke critically of Kagame's human rights record'³⁰. One month later, the trial against her started with a demand from prosecutors that she will be sentenced to 22 years in prison for inciting insurrection and forgery³¹.

²⁷ USDoS, *Country Report on Human Practices 2017 – Rwanda*, 20 April 2018, [url](#) p. 14

²⁸ USDoS, *Country Report on Human Practices 2017 – Rwanda*, 20 April 2018, [url](#) p. 14

²⁹ UN OHCHR, UN torture prevention body to visit Burundi, Costa Rica, Senegal and Switzerland; terminates Rwanda visit, 4 July 2018, [url](#)

³⁰ Al Jazeera, Rwandan opposition activist Diane Rwigara released on bail, 5 October 2018, [url](#)

³¹ Guardian, Rwandan who challenged president faces 22 years in jail as trial opens, 7 November 2018, [url](#)

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9. b *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, status as at: 8 November 2018, (https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=en), accessed 8 November 2018

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