



Ministerie van Buitenlandse Zaken

## Country of origin information report on human rights and the rule of law in Rwanda

*June 2023*



## Publication details

Location The Hague  
Directorate Sub-Saharan Africa

The Dutch version of this report is leading. The Ministry of Foreign Affairs of the Netherlands cannot be held accountable for misinterpretations based on the English version of the report.



This translation has been co-funded by the European Union.

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## Introduction

This country of origin information report describes the situation with regard to human rights and the rule of law in Rwanda, in particular insofar as this is relevant to the treatment and possible return of persons who were or may have been involved in the genocide in Rwanda in 1994. The report is an update of the country of origin information report for Rwanda of August 2016.<sup>1</sup> It covers the period from September 2016 to April 2023. Relevant developments up to the publication date have been included. The report is a factual, neutral and objective account of the findings that were made during the period under consideration. It is not a policy document and does not reflect the Dutch government's vision or policy in relation to a country or region. Nor does it contain any conclusions regarding immigration policy.

This country of origin information report was prepared on the basis of the questions and points of focus in the Terms of Reference (ToR) drawn up by the Ministry of Justice and Security. The ToR for this report were confirmed on 15 December 2022. It is available, together with the report, on the website of the Dutch Government. The report was prepared on the basis of public and confidential sources, using carefully selected, analysed and verified information. Information from, among other sources, specialist literature, media coverage, relevant government agencies and non-governmental organisations (NGOs), was used to create it. Unless stated otherwise or when the facts are generally undisputed, the content in this report is based on multiple sources. The public sources that were consulted are listed in the appendices.

Some of the information used was obtained through discussions with sources inside and outside Rwanda. The information obtained on this basis has chiefly been used to support and supplement the content based on public information. The information from interviews is referred to in the footnotes as 'confidential source', together with the year.

Chapter One deals with the historical context for this country of origin information report. Chapter Two considers the human rights situation, and Chapter Three describes developments in the judicial process. Chapter Four deals with detention conditions.

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<sup>1</sup> Dutch Ministry of Foreign Affairs, *Country Report on Human Rights and Justice in Rwanda*, 18 August 2016, <https://www.government.nl/documents/reports/2016/08/18/country-report-on-human-rights-and-justice-in-rwanda>.

## 1 Historical context

Below, a description is given of the historical context within which this country of origin information report should be read.

### 1.1 Origin of power relations<sup>2</sup>

For centuries, Tutsi kings expanded their monarchy within and beyond the borders of what is now Rwanda. However, they did not have much influence in the current north, where traditional Hutu leaders managed to maintain a certain autonomy. During the colonial period<sup>3</sup>, Rwanda was initially part of German East Africa, but after Germany's defeat in the First World War, the administration of the country (together with Burundi) was entrusted to Belgium by the League of Nations. The Belgian colonial power initially favoured the Tutsi in local administration. Democratic reforms took place from 1950 onwards, as a result of which the Hutu majority gained power. In 1959, even before independence, this led to a first wave of massacres, mainly against Tutsi. Shortly after independence in the 1960s and later in the 1970s, Tutsi massacres resumed. Many Tutsi fled to neighbouring countries. Those who remained increasingly faced government policies that disadvantaged them socially and politically because of their ethnicity.<sup>4</sup>

### 1.2 The 1994 genocide

In 1990, Tutsi refugees who had been part of Museveni's rebel army in Uganda under the name Rwandan Patriotic Front (RPF) invaded Rwanda. People from the inner circle around the president at the time, Habyarimana, organised a campaign of hatred against the Tutsi and against Hutu political opponents. On 6 April 1994, the plane carrying President Habyarimana was shot down and a 100-day genocide began in which more than 800,000 people, mostly Tutsi who were still in Rwanda, were killed by the Rwandan army (*Forces armées rwandaises*, FAR) and Hutu militias (*Interhamwe*). Moderate Hutu who opposed the genocide were also killed.<sup>5</sup>

### 1.3 The international community

<sup>2</sup> Traditionally, the population of Rwanda is said to be 85% Hutu, 14% Tutsi and 1% Twa. In the aftermath of the genocide, the authorities decided to ban references to these identities in the public domain.

<sup>3</sup> Rwanda became independent in 1962.

<sup>4</sup> Colette Braeckman, 'Des décennies de responsabilité belge', in *Le Monde Diplomatique*, May 2021, pp 14-15; Jean-Pierre Chrétien and Marcel Kabanda, 'Chapitre 3. Le Rwanda colonial. La racialisation du rapport Hutu-Tutsi au XX<sup>e</sup> siècle' in *Rwanda. Racisme et génocide*, 2016, pp 81-122; S/1994/1405 Letter dated 9 December 1994 from the Secretary General addressed to the President of the Security Council, 9 December 1994; Confidential source, April 2023.

<sup>5</sup> UN Outreach Programme on the 1994 Genocide Against the Tutsi in Rwanda and the United Nations, [Outreach Programme on the 1994 Genocide Against the Tutsi in Rwanda and the United Nations](#), accessed 15 April 2023; A/49/508 *Situation des droits de l'homme au Rwanda, note du Secrétaire général*, 13 October 1994; S/1994/1405 Letter dated 9 December 1994 from the Secretary General addressed to the President of the Security Council, 9 December 1994; BBC, Rwanda: 100 days of slaughter, 4 April 2019.



The UN peacekeeping force (UN Assistance Mission for Rwanda, UNAMIR) that was present did not intervene and was largely withdrawn. In June 1994, the French government launched *Opération Turquoise*, creating a temporary 'safe zone' in south-west Rwanda for the reception of displaced persons. Through this zone, many Hutu fled to Zaire, today known as the Democratic Republic of the Congo (DRC). Among them were many perpetrators of the genocide who managed to escape justice in this way.<sup>6</sup>

#### 1.4 Actions of the RPF after the genocide

On 19 July 1994, the RPF took power in the Rwandan capital, Kigali. This seizure of power brought an end to the genocide. There is little undisputed information about this period. According to the findings of a team of consultants commissioned by UNHCR to conduct research into the return of Rwandan refugees, soldiers from the new RPF-derived Rwandan army (Rwanda Patriotic Army, RPA) were guilty in certain areas of south and south-east Rwanda of systematic and persistent killing of unarmed civilians.<sup>7</sup> Human Rights Watch reported mass slaughters at public gatherings, disappearances, and arbitrary and extrajudicial killings. According to various sources, the RPF admitted that reprisals had taken place, but denied any systematic action.<sup>8</sup>

In the years following the genocide, former FAR members and the Interahamwe regrouped in refugee camps in Zaire and Tanzania and launched attacks on Rwandan territory.<sup>9</sup> According to a report by *Médecins Sans Frontières* (MSF), no action had been taken to separate civilians from the genocide perpetrators, despite calls for this by humanitarian organisations.<sup>10</sup> In a 1997 interview with the Washington Post, Kagame, then vice president and minister of defence, stated that Rwanda had supported the Zairean rebels that overthrew Mobutu's government that year, led by Laurent Kabila.<sup>11</sup> According to the Rwandan authorities, this was in response to a statement by a Zairean government representative that all Tutsi would be expelled from Zaire.<sup>12</sup> According to MSF's extensive study based on internal and public sources, during this advance towards the capital of Zaire the residents (both unarmed civilians and ex-FAR and Interahamwe) of refugee camps in eastern Zaire were scattered and many were killed.<sup>13</sup> In another interview, Kagame accused the UN and NGOs of allowing refugees to arm themselves, which he claimed made them partially responsible for the deaths. He admitted that innocent people might have been victims of revenge attacks, but denied that this

<sup>6</sup> Alison Des Forges (Human Rights Watch). *Leave none to tell the story*, March 1999, pp 432 -435; Mission d'Information de la Commission de la Défense nationale et des forces armées et de la commission des affaires étrangères sur les opérations militaires menées par la France, d'autres pays et l'ONU au Rwanda entre 1990 et 1994, *Rapport d'information*, 15 December 1998, pp 339-350.

<sup>7</sup> UNHCR, *Written report of the oral presentation by Mr Gersony to the Panel of Experts*, 11 October 1994, [gersony\\_report.pdf \(wordpress.com\)](#); Alison Des Forges (Human Rights Watch), *Leave none to tell the story*, March 1999, pp 481-491.

<sup>8</sup> Alison Des Forges (Human Rights Watch), *Leave none to tell the story*, March 1999, p 496; Confidential source, April 2023.

<sup>9</sup> Rwanda Ministry of Foreign Affairs, *Official Government of Rwanda comments on the draft UN mapping report on the DRC*, 30 September 2010, p 5.

<sup>10</sup> Médecins sans Frontières, *The hunting and killing of Rwandan refugees in Zaire-Congo (1996-1997)*, 1 April 2014, p 13.

<sup>11</sup> The Washington Post, *Rwandans led revolt in Congo*, 9 July 1997.

<sup>12</sup> Rwanda Ministry of Foreign Affairs, *Official Government of Rwanda comments on the draft UN mapping report on the DRC*, 30 September 2010, p 10.

<sup>13</sup> Médecins sans Frontières, *The hunting and killing of Rwandan refugees in Zaire-Congo (1996-1997)*, 1 April 2014, p 13.

had been the intention of Rwanda and the Zairean rebels. If there were deaths, he claimed, this was due to the actions of individuals, not organisations.<sup>14</sup>

## 1.5 Trial of genocide perpetrators

### 1.5.1 ICTR

In February 1995, the UN Security Council decided to establish the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania. The tribunal undertook the prosecution of those most responsible for the genocide and for crimes against humanity in Rwanda between 1 January and 31 December 1994. The ICTR convicted 61 persons for their involvement in the genocide and acquitted fourteen suspects.<sup>15</sup> At the same time, the functioning of the ICTR was criticised, in particular on the grounds that the pace of the proceedings was slow, cooperation with the Rwandan judiciary was fraught with difficulty, and the work of the tribunal was remote from the Rwandan population. The ICTR ended its activities on 31 December 2015.<sup>16</sup> From 2016, the International Residual Mechanism for Criminal Tribunals (IRMCT), established in 2010, took over the remaining activities from the ICTR, including archive management and tracking down fugitive suspects.<sup>17</sup>

### 1.5.2 Trial in Rwanda

In Rwanda, a law (*loi organique*) was passed on 30 August 1996 regarding prosecutions for genocide and crimes against humanity. The law covered crimes committed between 1 January 1990 and 31 December 1994. It distinguished four categories of crime:

- Category 1: planning and inciting genocide and mass killings;
- Category 2: carrying out genocide, i.e. killing;
- Category 3: injuring without killing;
- Category 4: looting and destroying.<sup>18</sup>

In all categories except for Category 1, where the death penalty could be imposed, the sentences to be imposed were lighter than for comparable crimes under the Penal Code in effect at the time.<sup>19</sup>

### 1.5.3 Regular courts and *gacaca*

After the genocide, the legal system in Rwanda was completely destroyed. For example, only seventeen judges had survived the 1994 massacres. The number of

<sup>14</sup> Mail and Guardian, *Why Rwanda admitted to its role in Zaire*, 8 August 1997.

<sup>15</sup> IRMCT, Legacy website of the ICTR, [Key Figures of Cases | United Nations International Criminal Tribunal for Rwanda \(irmct.org\)](#), accessed 15 April 2023.

<sup>16</sup> Dutch Ministry of Foreign Affairs, *General country of origin information report on Rwanda*, October 2002 (Dutch only), p 16; Human Rights Watch, Rwanda, International Tribunal closing its doors, 23 December 2015; BBC News, *Rwanda genocide: International Criminal Tribunal closes*, 14 December 2015.

<sup>17</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, p 33.

<sup>18</sup> N°16/2004 du 19/6/2004 *Loi Organique portant organisation, compétence et fonctionnement des Juridictions Gacaca chargées des poursuites et du jugement des infractions constitutives du crime de génocide et d'autres crimes contre l'humanité commis entre le 1er octobre 1990 et le 31 décembre 1994*.

<sup>19</sup> Dutch Ministry of Foreign Affairs, *General country of origin information report on Rwanda*, October 2002 (Dutch only), p 17.

suspects was large: Rwanda's prison population was around 130,000 in 1998.<sup>20</sup> The weakened legal system was unable to handle the large numbers of suspects, so the government established the *gacaca*<sup>21</sup> based on the traditional administration of justice.<sup>22</sup>

The *gacaca* law provided for the following for each court:

- A general assembly, consisting of all persons over eighteen years of age in the cellule;
- A seat of the *gacaca* jurisdiction, consisting of nine 'persons of integrity' (lay judges) elected by the general assembly, with a quorum of seven persons of integrity needed to hear a case; and
- A coordinating committee, consisting of persons elected by the general assembly who could read and write Kinyarwanda well and who had the role of rapporteur on the legal proceedings.

The persons of integrity, or lay judges, received a two-week training course from *gacaca* instructors (magistrates and law students), who had themselves undergone a month's training.<sup>23</sup> The *gacaca* law made provision for neither a prosecutor nor legal assistance.<sup>24</sup>

When the *gacaca* were established, the number of categories of crimes (see above) was reduced to three:

- Category 1: those responsible for planning, executing and inciting genocide at the national level and rape;
- Category 2: those who killed or caused physical injury;
- Category 3: those who looted and destroyed.<sup>25</sup>

The regular courts heard only Category 1 cases; the other categories of suspects were tried by the *gacaca*, which dealt with groups of suspects at the same time.<sup>26</sup> In order to further reduce the pressure on the regular courts, an amendment to the law in 2007 transferred torture and degrading treatment of the dead (formerly included in Category 1) to Category 2. Although this eased the pressure on the regular courts, it also led to the *gacaca* being mandated to impose life sentences. This, according to Penal Reform International, gave rise to serious concerns about the extent to which the defendants received a fair trial, as they had no access to legal assistance and were tried by lay judges who had neither the competence nor the experience to handle such cases.<sup>27</sup>

False accusations of genocide occurred. Trauma and personal interest sometimes played a role here; for example, a Hutu from an area where there was a lot of killing

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<sup>20</sup> Carina Tertsakian, "Some prisons are prisons, and others are like hell." Prison life in Rwanda in the ten years after the genocide' in *Prison Service Journal*, no. 212, March 2014, p 4

<sup>21</sup> *Gacaca* literally means 'grass', and refers to the traditional justice of Rwanda, in which a community dealt collectively with disputes on a patch of grass.

<sup>22</sup> Dutch Ministry of Foreign Affairs, *General country of origin information report on Rwanda*, October 2002 (Dutch only), p 18; Aegis, *Project proposal. Completion of Gacaca archive project*, March 2022.

<sup>23</sup> Le Monde, *Les «gacaca», ces tribunaux populaires par lesquels le «miracle» rwandais est arrivé*, 15 April 2019; The New Humanitarian, *La formation des juges des tribunaux gacaca commence*, 10 April 2002.

<sup>24</sup> N°16/2004 du 19/6/2004 *Loi Organique portant organisation, compétence et fonctionnement des Juridictions Gacaca chargées des poursuites et du jugement des infractions constitutives du crime de génocide et d'autres crimes contre l'humanité commis entre le 1er octobre 1990 et le 31 décembre 1994*, section II; The New Humanitarian, *La formation des juges des tribunaux gacaca commence*, 10 April 2002.

<sup>25</sup> N°16/2004 du 19/6/2004 *Loi Organique portant organisation, compétence et fonctionnement des Juridictions Gacaca chargées des poursuites et du jugement des infractions constitutives du crime de génocide et d'autres crimes contre l'humanité commis entre le 1er octobre 1990 et le 31 décembre 1994*.

<sup>26</sup> Dutch Ministry of Foreign Affairs, *General country of origin information report on Rwanda*, October 2002 (Dutch only), p 18; Aegis, *Project proposal. Completion of Gacaca archive project*, March 2022.

<sup>27</sup> Penal Reform International, *Huit ans après... le point sur le monitoring de la Gacaca au Rwanda*, 2010, p 26.

might by definition be considered guilty by survivors; or someone who had unlawfully taken possession of another person's property might bear false witness for reasons of self-interest.<sup>28</sup>

Gacaca justice did not provide all the internationally accepted guarantees of a fair trial.<sup>29</sup> However, human rights organisations did not speak out categorically against gacaca, realising that the backlogs in the trials of genocide suspects called for unconventional solutions. Many, both inside and outside Rwanda, considered gacaca the only credible alternative to bring the genocide suspects to justice within any reasonable time frame.<sup>30</sup>

The gacaca were abolished in 2012 after handling nearly two million cases.<sup>31</sup> According to various sources, 65% of the suspects who were tried were found guilty.<sup>32</sup>

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<sup>28</sup> Le Monde, *Les «gacaca», ces tribunaux populaires par lesquels le «miracle» rwandais est arrivé*, 15 April 2019; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>29</sup> Elements of a fair trial include: a formal charge, independent [judges](#), trial within a reasonable time, [legal assistance](#), the opportunity and time to prepare a defence, the possibility of hearing witnesses, no forced confessions, trial according to laws valid at the time of the alleged offence, no second conviction for the same offence (ne bis in idem), and the possibility of appeal and [pardon](#). Source: Amnesty International encyclopedie, [Eerlijk proces - gerechtigheid - advocaten - Amnesty International](#), accessed 6 April 2023.

<sup>30</sup> Dutch Ministry of Foreign Affairs, *General country of origin information report on Rwanda*, October 2002 (Dutch only), p 18.

<sup>31</sup> Dutch Ministry of Foreign Affairs, *General country of origin information report on Rwanda*, October 2002 (Dutch only), p 18; Aegis, *Project proposal. Completion of Gacaca archive project*, March 2022.

<sup>32</sup> Le Monde, *Les «gacaca», ces tribunaux populaires par lesquels le «miracle» rwandais est arrivé*, 15 April 2019; Radio France, *Rwanda, la fin officielle des "gacaca"*, 19 June 2012; France Info, *Rwanda : les condamnations dans le monde liées au génocide*, 18 May 2020.

## 2 Human rights

### 2.1 Developments in the human rights situation

As in the previous reporting period<sup>33</sup>, the Rwandan Patriotic Front (RPF), the main governing party,<sup>34</sup> dominated the country with authority and firm control over civil society. President Paul Kagame and his appointed confidants maintained their vision of a state run on a tight rein, with an emphasis on national security and socio-economic development. The circle of confidants was held together by unconditional loyalty and discipline, with defectors not tolerated, power-sharing tightly controlled, and hardly any room for freedom of expression or a vibrant and independent civil society.<sup>35</sup>

According to the 2022 *Ibrahim Index of Governance*<sup>36</sup> (IIG) of 54 African countries, Rwanda was among the ten countries that had made the most progress on the Security and Rule of Law indicators since 2012.<sup>37</sup> Rwanda scored as follows on the subcategory indicators for Security and the Rule of Law: Security and Safety 82 out of 100 (ranked 23); Rule of Law and Justice 59.2 out of 100 (ranked 14); Accountability and Transparency 44.4 out of 100 (ranked 19); and Anti-Corruption 79.3 out of 100 (ranked 1). In the Rule of Law and Justice category, Rwanda scored lowest on Executive Compliance with the Rule of Law (36.6 of 100, ranked 39) and Impartiality of the Judicial System (39.9 of 100, ranked 34); and best on Law Enforcement (85.2, ranked 1).<sup>38</sup>

At the same time, Rwanda was among the twenty countries that had experienced the greatest decline in the area of Participation, Rights and Inclusion.<sup>39</sup> Rwanda scored as follows on the subcategory indicators for Participation, Rights and Inclusion : Participation 28 of 100 (ranked 35); Rights 29.3 out of 100 (ranked 42); Inclusion and Equality 36.5 of 100 (ranked 40); and Women's Equality 85.2 out of 100 (ranked 1).<sup>40</sup>

In the run-up to the 2017 elections, the scores on the Personal Freedoms and Digital Rights indicators were among those deteriorating most rapidly in Rwanda. These indicators deteriorated further in the years after the elections. Between 2017 and 2018, Freedom of Expression and Belief was the fastest-deteriorating indicator in Rwanda.<sup>41</sup>

<sup>33</sup> The previous reporting period ran from December 2011 to July 2016.

<sup>34</sup> The RPF is known in French and English as the *Front patriotique rwandais* (FPR) and the *Rwandan Patriotic Front* (RPF) respectively.

<sup>35</sup> Bertelsmann Stiftung, *BTI 2022 Country report Rwanda*, 2022, pp 3, 8; Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, pp 22-26; Omar Shahabudin McDoom, 'Securocratic state-building: the rationales, rebuttals, and risks behind the extraordinary rise of Rwanda after the genocide' in *African Affairs*, Volume 121, Issue 485, October 2022, pp 535-567.

<sup>36</sup> The Ibrahim Index on Governance consists of four categories of indicators: Security and Rule of Law; Participation, Rights and Inclusion; Foundations for Economic Opportunity; and Human Development. For this report, only the first two categories have been considered, as they relate to the rule of law and human rights. Rwanda ranks 12th out of 54 countries in the overall index.

<sup>37</sup> Mo Ibrahim Foundation, *2022 Ibrahim Index of African Governance*, January 2023, p 31.

<sup>38</sup> Mo Ibrahim Foundation, *2022 IIAG Scores, Ranks & Trends – Rwanda*, January 2023.

<sup>39</sup> Mo Ibrahim Foundation, *2022 Ibrahim Index of African Governance*, January 2023, p 47.

<sup>40</sup> Mo Ibrahim Foundation, *2022 IIAG Scores, Ranks & Trends – Rwanda*, January 2023.

<sup>41</sup> Mo Ibrahim Foundation, *2022 Ibrahim Index of African Governance*, January 2023, p 56.

According to the 2022 EU Human Rights Report, Rwanda continued to show great ambition with regard to socio-economic rights.<sup>42</sup> According to a confidential source, Rwanda's socio-economic development led to political calm because Rwandans were proud of their country's image.<sup>43</sup> On the other hand, Rwanda continued to be accused of serious human rights violations such as excessive violence, deaths in detention under suspicious circumstances, extrajudicial killings and disappearances. Observers and human rights defenders continued to report arbitrary detention and inhuman and degrading treatment in detention.<sup>44</sup>

One notable case was the kidnapping of Paul Rusesabagina. Rusesabagina fled from Rwanda to Belgium in 1996, obtained Belgian nationality and later obtained a residence permit in the United States. He became internationally known as the inspiration for the film *Hotel Rwanda*, and was critical of the Rwandan authorities. Since 2019, a joint Belgian-Rwandan criminal investigation had been ongoing against Rusesabagina due to his call to bring about change in Rwanda by any means possible and his alleged involvement in the armed resistance movement FLN, which carried out attacks in Rwanda in 2018/19.<sup>45</sup> In August 2020, he travelled from the US to Dubai, from where he intended to travel to Burundi. However, the private jet he boarded in Dubai took him to Kigali, where he was arrested on arrival. Four days later, the Rwanda Investigations Bureau (RIB) announced that it had placed him in pre-trial detention in Kigali.<sup>46</sup> Later, the Rwandan justice minister admitted that the Rwandan government had hired the plane that took him to Rwanda, thereby undermining the joint criminal investigation.<sup>47</sup> Rusesabagina was sentenced to 25 years in prison in 2021.<sup>48</sup> In the same year, the European Parliament passed two resolutions condemning his enforced disappearance.<sup>49</sup> In March 2023, under heavy US pressure, President Kagame granted Rusesabagina a conditional pardon and he was released. He returned to the United States at the end of March 2023. Rusesabagina had to promise to have no further involvement in Rwandan politics.<sup>50</sup> The criminal investigation against Rusesabagina in Belgium had not yet been completed at the end of the reporting period.<sup>51</sup>

During the COVID-19 period (2020-2021), the authorities declared three lockdowns, all of which were enforced by the police. While this was a legitimate response by the authorities to an unpredictable pandemic, in some cases it led to repression, not least against bloggers and journalists (see also 2.7.1.2).<sup>52</sup>

<sup>42</sup> EEAS, *EU annual report on human rights and democracy in the world 2021, country updates*, 19 April 2022, p 137.

<sup>43</sup> Confidential source, February 2023.

<sup>44</sup> EEAS, *EU annual report on human rights and democracy in the world 2021, country updates*, 19 April 2022, p 137.

<sup>45</sup> American Bar Association, Rwanda: Background Briefing on Proceedings Against Paul Rusesabagina, 30 January 2023, [Rwanda: Background Briefing on Proceedings Against Paul Rusesabagina \(americanbar.org\)](#), accessed 14 May 2023; Clooney Foundation for Justice, *The case of Paul Rusesabagina*, April 2022; Confidential source, February 2023; Confidential source, April 2023.

<sup>46</sup> Human Rights Watch, *2021 World report. Events of 2020, 2020*; Human Rights Watch, *2022 World report. Events of 2021, 2021*, pp 565-568; Human Rights Watch, *2023 World Report, Rwanda events of 2022, 2022*, pp 513-514; US Department of State, *2021 country report on human rights practices, Rwanda, 2022*, p 4; Amnesty International, *2021 Annual report, 2022*, p 315; RTBF, *L'avocat de Paul Rusesabagina présente "la preuve" de son enlèvement par le Rwanda*, 20 May 2022.

<sup>47</sup> Reuters, *Rwandan president removes justice minister amid 'Hotel Rwanda' hero trial*, 1 September 2021; Confidential source, April 2023.

<sup>48</sup> Al Jazeera, *Hotel Rwanda hero Paul Rusesabagina freed from prison*, 24 March 2023.

<sup>49</sup> P9\_TA (2021)0055 *Rwanda, the case of Paul Rusesabagina European Parliament resolution of 11 February 2021 on Rwanda, the case of Paul Rusesabagina (2021/2543(RSP))*; P9\_TA (2021)0418 *The case of Paul Rusesabagina in Rwanda European Parliament resolution of 7 October 2021 on the case of Paul Rusesabagina in Rwanda (2021/2906(RSP))*.

<sup>50</sup> CNN Politics, *'Hotel Rwanda' hero Paul Rusesabagina arrives back in US*, 29 March 2023; TV5Monde, *Rwanda : libération de l'opposant Paul Rusesabagina*, 26 March 2023, [\(169\) Rwanda : libération de l'opposant Paul Rusesabagina - YouTube](#), accessed 29 March 2023.

<sup>51</sup> Confidential source, February 2023; Confidential source, April 2023.

<sup>52</sup> VOA, *Le stade ou l'amende pour les Rwandais qui violent le couvre-feu*, 7 August 2022; Confidential source, February 2023; Confidential source, April 2023.

## 2.2 Freedom of the press and freedom of expression

### 2.2.1 Legal framework for freedom of expression

Article 37 of the Rwandan Constitution criminalises ethnic, regional and racial discrimination and the propagation of any form of division. Article 38 of the Constitution provides for the freedom to access information, express opinions and share information through the media. Censorship is explicitly prohibited. The law restricts these freedoms when journalists prejudice 'public order' and 'good morals', or 'the right of every citizen to honour and dignity and protection of personal and family privacy'.<sup>53</sup> The restrictions on these freedoms referred to in this article were established in the legislation on genocide ideology in 2008 (see also 2.3).<sup>54</sup>

The new Penal Code of 2018 criminalised humiliation of members of parliament, cabinet members, security officers and other officials. The article in question was repealed in 2019. Slander and libel against foreign and international dignitaries remained criminal offences.<sup>55</sup>

### 2.2.2 Journalism in practice

The Rwanda Media Commission (RMC) was supposed to be self-regulating (and thus independent), but the US State Department human rights report stated that according to journalists, the positions within the commission were filled in consultation with the authorities. According to the same report, the RMC sometimes acted in favour of journalists, but in general the committee was seen as pro-government.<sup>56</sup>

The coverage by journalism (including investigative journalism) in Rwanda was generally pro-government. According to observers, the authorities used the ambiguity of the legislation against genocide ideology (see also 2.3.4) to suppress critical reporting. A number of investigative journalists and YouTubers were particularly affected by this; several of them were arrested and detained during the reporting period (see also 2.2.5 and 2.7.1.2).<sup>57</sup> According to various sources, most journalists were neither able nor willing to criticise government policies because they feared intimidation, threats and persecution, and because the private sector

<sup>53</sup> *Constitution of Rwanda 2003, revised in 2015*,

<sup>54</sup> Global Voices, *How does Rwanda's genocide ideology law regulate speech online?*, 20 July 2020; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 16-19.

<sup>55</sup> Amendment to Penal Code: N° 69/2019 or 08/11/2019 Law amending Law n° 68/2018 or 30/08/2018 determining offences and penalties in general, Article 9; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 20.

<sup>56</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 16-17.

<sup>57</sup> Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; CPJ, *Rwandan journalist Théoneste Nsengimana detained since October 13*, 3 November 2021; KT Press, *RMC, RURA caution journalists on violating COVID-19 measures*, 13 April 2020; Le Monde Afrique, *La youtubeuse Yvonne Idamange condamnée à 15 ans de prison au Rwanda pour avoir critiqué le pouvoir*, 1 October 2021; CPJ, *Aimable Karasira Uzaramba imprisoned*, 31 May 2021; DW, *Rwanda : Yvonne Idamange a été condamnée à 15 ans de prison*, 1 October 2021; Human Rights Watch, *2020 World report. Events of 2019, 2020*; Human Rights Watch, *2020 World report. Events of 2019, 2020*; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3; JamboNews, *Rwanda: Où est Innocent Bahati?*, 23 March 2021; The Guardian, *Margaret Atwood joins writers calling for urgent action over missing Rwandan poet*, 7 February 2022; Human Rights Watch, *2023 World Report. Events of 2022, 2022*, pp 514-515; Index on censorship, *Ntwali's death is a huge loss for Rwanda's challenging media landscape*, 24 January 2023.

was reluctant to advertise in critical press outlets.<sup>58</sup> According to a confidential source, self-censorship was also a result of the public having little interest in criticism and problems.<sup>59</sup>

### 2.2.3 *The written press*

Newspapers were available in French, English and Kinyarwanda. Critical newspapers struggled to sell advertising space and were often financially unviable as a result. Independent newspapers mainly published on the Internet.<sup>60</sup>

### 2.2.4 *Radio*

According to the RMC, Rwanda had 35 radio stations, six of which were government stations and 29 of which were independent. Some radio stations ran phone-in broadcasts, in which callers sometimes expressed criticism of the social and human rights policy. These criticisms mainly focused on provincial leaders and local implementation of policies, rather than on the national leadership or the governing party. In general, however, radio broadcasts were dominated by views consistent with those of the government and were less critical than other media.<sup>61</sup>

The BBC's Kinyarwanda channel had its licence revoked in 2014 after a broadcast that authorities said amounted to denial of the genocide.<sup>62</sup> There was no change to this during the reporting period<sup>63</sup>, but the channel could still be received via the Internet in Rwanda.<sup>64</sup> The BBC World Service, broadcasting in English, had a radio frequency (93.9 FM)<sup>65</sup>, as did the Voice of America channel which broadcast in Kinyarwanda (104.3 FM).<sup>66</sup>

### 2.2.5 *Social media*

Although access to the Internet remained limited and was concentrated mainly in urban areas<sup>67</sup>, the Internet and social media increased access to information that was not controlled by the authorities. Critical debate took place most often on Twitter and in the comment sections under online newspaper articles. YouTube was also widely used. According to a confidential source who followed several channels on YouTube, Itahuku, the channel of the opposition in exile, was watched relatively little; channels of YouTubers in Rwanda had more viewers. According to a confidential source, they served as a gauge of what was acceptable to the authorities.<sup>68</sup>

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<sup>58</sup> Newstex Blogs, *How does Rwanda's genocide ideology law regulate speech online?*, 20 July 2020; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 18-19; Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 491; Confidential source, February 2023.

<sup>59</sup> Confidential source, February 2023.

<sup>60</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 18-19.

<sup>61</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 18-20; Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 491; Confidential source, February 2023.

<sup>62</sup> Reporters Without Borders, *BBC's Kinyarwanda broadcasts suspended indefinitely*, 24 October 2014.

<sup>63</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 491; Confidential source, February 2023.

<sup>64</sup> BBC Kinyarwanda/Kirundi, [BBC Kinyarwanda / Kirundi - Gahuza - listen live \(radio-live-uk.com\)](https://www.bbc.com/kirundi/streams/20230405), accessed 5 April 2023.

<sup>65</sup> BBC World Service, *BBC Africa on the radio*, [Rwanda - Africa | Schedules | BBC World Service](https://www.bbc.com/africa/schedules), accessed 5 April 2023; Confidential source, February 2023.

<sup>66</sup> Confidential source, February 2023.

<sup>67</sup> Rwanda National Institute of Statistics, *5th Rwanda population and housing census, Main indicators report*, 2022, p 23.

<sup>68</sup> Confidential source, February 2023.



During the reporting period, several YouTubers were arrested and prosecuted (see also 2.7.1.2). In April 2020, after the arrest of several YouTubers who reported on the consequences of the COVID-19 lockdown, the RMC issued a statement to the effect that bloggers, such as those using YouTube, were not journalists and were therefore not authorised to interview members of the public.<sup>69</sup> Independent YouTubers reported that the government was using media laws and registration requirements to criminalise critical reporting by citizens.<sup>70</sup> In a December 2021 Voice of America article, journalist and YouTuber John Williams Ntwali stated that YouTubers who created content about beauty or sports or offered products for sale had little to fear, but those – like himself – who focused on politics and current affairs faced threats and the risk of imprisonment.<sup>71</sup> Ntwali died under suspicious circumstances in January 2023 (see also 2.6).

### 2.2.6 COVID-19

During the COVID-19 lockdown imposed by the authorities, at least six journalists and YouTubers were arrested in early 2020. In March 2020, four bloggers who had reported allegations of rape by security forces and negative consequences of the COVID-19 lockdown were arrested. The same YouTubers had in the previous months also reported on land evictions in a poor neighbourhood of Kigali. In April, two vloggers from Afrimax TV were arrested after asking for permission to distribute food in a neighbourhood of Kigali. These vloggers were released a month later.<sup>72</sup>

Théoneste Nsengimana was arrested in March 2020 for allegedly offering money to a group of citizens to say on camera that they had received aid from abroad.<sup>73</sup> He was released in May 2020 pending trial.<sup>74</sup>

On 15 April 2020, YouTuber Dieudonné Niyonsenga, also known as Cyuma Hassan, and his driver were arrested. Niyonsenga was reporting on the consequences of the COVID-19 measures at the time. In March 2021, Niyonsenga was initially acquitted and released.<sup>75</sup> He continued his critical reporting after his release, including about alleged misconduct by the military.<sup>76</sup> A few months after his acquittal, he was found guilty on appeal of 'forgery, impersonation, hindering public works and humiliation of national authorities and persons in charge of public service'.<sup>77</sup> He was sentenced to seven years in prison and fined five million RwF.<sup>78</sup> Niyonsenga was accused of practising journalism without accreditation. Despite Niyonsenga having studied journalism and having worked for registered media in the past, the prosecutor

<sup>69</sup> Human Rights Watch, *2021 World report. Events of 2020*, 2021, pp 575-576; Committee to Protect Journalists, *Rwandan journalist, media worker detained since mid-April*, 21 May 2020; KT Press, *RMC, RURA caution journalists on violating COVID-19 measures*, 13 April 2020; Twitter, @RMC\_Rwanda, 13 April 2020, [RMC on Twitter: "Itangazo rigenewe Abanyamakuru muri ibi bihe bya Covid-19\(turisequra ku ikosa ryari mu nteruro ya mbere y'iryo mwabonye mbere\) https://t.co/z0yRVPwZPp" / Twitter](#), accessed 7 March 2023.

<sup>70</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 18-19.

<sup>71</sup> VOA, *Rwanda's Assault on YouTubers Puts Journalists in Crosshairs*, 7 December 2021.

<sup>72</sup> Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; KT Press, *RMC, RURA caution journalists on violating COVID-19 measures*, 13 April 2020.

<sup>73</sup> KT Press, *RMC, RURA caution journalists on violating COVID-19 measures*, 13 April 2020; Human Rights Watch, *2021 World report. Events of 2020*, 2021, pp 575-576.

<sup>74</sup> Human Rights Watch, *2021 World report. Events of 2020*, 2021, pp 575-576.

<sup>75</sup> Committee to Protect Journalists, *Rwandan journalist Dieudonné Niyonsenga acquitted, released after 11 months in prison*, 15 March 2021.

<sup>76</sup> Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022.

<sup>77</sup> Human Rights Watch, *2021 World report. Events of 2020*, 2021, pp 575-576; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Confidential source, February 2023.

<sup>78</sup> Reporters without Borders, *Rwandan online video reporter given "absurd" seven-year-jail sentence*, 22 November 2021; Al Jazeera, *Rwandan YouTube star jailed for 'humiliating' state officials*, 12 November 2021.

compared his actions to a doctor or lawyer working without a licence. The charge that was added during the appeal concerning the humiliation of national authorities and public officials had lacked any legal basis since 2019 (see above), as a result of which the prosecutor had to appeal again to correct the error.<sup>79</sup>

### 2.2.7 *Civil society*

According to various sources, civil-society organisations that cooperated with the authorities were able to operate fairly freely.<sup>80</sup> However, all local and international NGOs had to become members of the National Civil Society Platform.<sup>81</sup> According to the Bertelsmann Stiftung, the Rwandan authorities generally discouraged membership of civil-society organisations and ignored them when formulating policy. On the other hand, some seats in parliament were reserved for certain groups, such as young people, women and the disabled.<sup>82</sup> According to several sources, independent civil-society organisations were weak due to years of intimidation and government interference.<sup>83</sup>

## 2.3 **Genocide ideology**

### 2.3.1 *Combating genocide ideology and sectarianism*

Combating genocide ideology and ethnic, regional and other forms of division are among the fundamental principles enshrined in the Constitution of Rwanda.<sup>84</sup> According to several sources, the authorities had legitimate grounds for curbing the kind of hate speech that led to the 1994 genocide and for countering the return of ethnic politics.<sup>85</sup>

### 2.3.2 *Genocide ideology law*

In September 2018, a revised version of the genocide ideology law was passed.<sup>86</sup> During the previous reporting period, in August 2013, the law had already been amended to replace the vague definition of genocide with international definitions.<sup>87</sup> The new revision of 2018 coincided with the revision of the Penal Code. Genocide denial and genocide ideology were not included in the revised version of the Penal Code.<sup>88</sup>

<sup>79</sup> Human Rights Watch, *2021 World report. Events of 2020, 2021*, pp 575-576; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Confidential source, February 2023.

<sup>80</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 22-23; Confidential source, February 2023.

<sup>81</sup> Bertelsmann Stiftung, *BTI 2022 Country report Rwanda*, 2022, p 9.

<sup>82</sup> Bertelsmann Stiftung, *BTI 2022 Country report Rwanda*, 2022, p 32.

<sup>83</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, p 491; Human Rights Watch, *2020 World report. Events of 2019, 2019*, p 483; Human Rights Watch, *2021 World report. Events of 2020, 2021*, pp 575-576; Bertelsmann Stiftung, *BTI 2022 Country report Rwanda*, 2022, pp 9, 26; International Center for Not-For-Profit Law, [Rwanda - ICNL](#), accessed 6 April 2023.

<sup>84</sup> *Constitution du Rwanda*, 2003, Article 9, [Rwanda. CONSTITUTION, 2003 \(ilo.org\)](#), accessed 24 March 2023.

<sup>85</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Confidential source, February 2023.

<sup>86</sup> The New Times, *Parliament Passes Law Against Genocide Ideology*, 11 July 2018; US Department of State, *2018 Country report on human rights practices Rwanda*, 2019, p 15.

<sup>87</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, pp 49-50.

<sup>88</sup> Africa News, *Rwanda: Heated Debate as MPs Start Scrutiny of Draft Penal Code*, 17 November 2017.

Groups representing the interests of genocide survivors wanted penalties, which had been reduced from a maximum of 25 years in prison to five to nine years in 2013, to be increased again.<sup>89</sup>

In the new law, the penalties were set as follows:

- Genocide ideology, denial of genocide, minimisation of genocide and justification of genocide: two to four years in prison with a fine of RwF 500,000 to RwF 1,000,000<sup>90</sup> for each violation.
- Disposing of or degrading evidence of genocide: five to seven years in prison with a fine of RwF 500,000 to RwF 1,000,000.
- Stealing or destroying bodies of the victims of genocide, and demolishing, damaging or desecrating a memorial site or burial place of genocide victims: ten to fifteen years in prison with a fine of RwF 1,000,000 to RwF 2,000,000 for each violation.
- Violence against a survivor of the genocide: five to nine years in prison with a fine of RwF 500,000 to RwF 1,000,000.

The law also stated that if the above offences were committed by NGOs, companies or political parties, only fines could be imposed, but the court might decide to close down the organisation or ban it from operating in Rwanda.<sup>91</sup>

Divisionism<sup>92</sup>, sectarianism and genocide denial were generally treated as identical; what had previously been called divisionism was prosecuted during the reporting period as denial or minimisation of genocide.<sup>93</sup> Deviations from the narrative that the RPF had ended the genocide and saved the country, for example by referring to the massacres carried out by the RPF, could be punished with charges of genocide denial and divisionism.<sup>94</sup>

### 2.3.3 Trends in prosecutions

The Rwandan police stated every year how many arrests had been made on the basis of the genocide ideology legislation. The number of prosecutions for genocide ideology in the reporting period decreased compared to the years after the genocide<sup>95</sup>, but after a dip in the years 2017-2019, the number of arrests increased again in 2020 and 2021. In 2021, 86 investigations were launched, leading to 66 arrests, and in 2022, 68 investigations were launched, leading to 53 arrests.<sup>96</sup>

Well-known cases of prosecution for genocide ideology during the reporting period included YouTubers Yvonne Idamange and Aimable Karasira, both genocide

<sup>89</sup> The New Times, *Tougher Measures Needed in Fight Against Genocide Ideology*, 17 April 2017.

<sup>90</sup> Approximately 415 to 840 euros.

<sup>91</sup> Rwanda Law No 59/2018 of 22/8/2018 on the crime of genocide ideology and related crimes, [RWANDA Law 59-2018 on crime of genocide ideology and related crimes.pdf \(ohchr.org\)](#) accessed 20 March 2023; The New Times, *Parliament Passes Law Against Genocide Ideology*, 11 July 2018.

<sup>92</sup> The term divisionism refers to *Law No 47/2001 of December 2001 instituting punishment for offences of discrimination and sectarianism*, in which discrimination and divisionism are made criminal offences.

<sup>93</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>94</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 23; see also the cases of Victoire Ingabire, Yvonne Idamange and Aimable Karasira.

<sup>95</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>96</sup> US Department of State, *2018 Country report on human rights practices Rwanda*, 2019, p 15; US Department of State, *2019 Country report on human rights practices Rwanda, 2020*, p 15; US Department of State, *2020 Country report on human rights practices Rwanda*, 2021, p 16; US Department of State, *2021 Country report on human rights practices Rwanda*, 2022, p 18; US Department of State, *2022 Country report on human rights practices Rwanda*, 2023, p 16.

survivors, who used their videos to discuss the 1994 genocide, including the crimes committed by the RPF in the aftermath (see also 2.7.1.2).<sup>97</sup>

#### 2.3.4 *Genocide ideology and freedom of expression*

Legislation against divisionism, genocide ideology and genocide denial was still often used to discourage citizens and visitors to Rwanda from expressing opinions that could be seen as polarising or as a threat to the security and stability of Rwanda.<sup>98</sup> A joke or a remark made in frustration could reportedly have serious consequences. For example, a confidential source told of a person who had been prosecuted for genocide ideology because he had prioritised feeding his cows over participating in the activities of the genocide commemoration.<sup>99</sup> The source did not say what penalty the person concerned received for this.

## 2.4 **Ill-treatment, torture and excessive force**

### 2.4.1 *Legal framework*

The Constitution of Rwanda prohibits torture and other forms of cruel, inhuman and degrading treatment. The Penal Code prescribes prison sentences of 20 to 25 years for those who carry out torture, and life imprisonment for public officials who are guilty of torture during the performance of their duties.<sup>100</sup>

### 2.4.2 *Optional Protocol to the Convention Against Torture*

Rwanda ratified the Optional Protocol to the Convention against Torture (OPCAT) in 2015, but in 2018 the UN Subcommittee on the Prevention of Torture (SPT) broke off its visit to Rwanda due to lack of cooperation from the Rwandan authorities. The visit had already been suspended a year earlier because the Rwandan authorities had not allowed the committee to hold confidential talks with Victoire Ingabire (see also 2.9) and other prisoners. The Rwandan authorities rejected the allegation that they had obstructed the committee.<sup>101</sup> During talks with the EU ambassadors in the autumn of 2022, the Minister of Justice promised that the UN subcommittee would be welcome to visit Rwanda.<sup>102</sup>

<sup>97</sup> DW, Rwanda: Yvonne Idamange a été condamnée à 15 ans de prison, 1 October 2021; Human Rights Watch, *2020 World report. Events of 2019*, 2020; Le Monde Afrique, *La youtubeuse Yvonne Idamange condamnée à 15 ans de prison au Rwanda pour avoir critiqué le pouvoir*, 1 October 2021; CPJ, *Aimable Karasira Uzaramba imprisoned*, 31 May 2021.

<sup>98</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022; Human Rights Watch, *2022 World report. Events of 2021*, 2021, p 563; Human Rights Watch, *Rwanda: Wave of Free Speech Prosecutions*, 16 March 2022; US Department of State, *2018 Country report on human rights practices Rwanda*, 2019, p 15; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022; Human Rights Watch, *2022 World report. Events of 2021*, 2021, p 563; Index on censorship, *Ntwali's death is a huge loss for Rwanda's challenging media landscape*, 24 January 2023; Global Voices, *How does Rwanda's genocide ideology law regulate free speech online?*, 20 July 2020; Confidential source, February 2023.

<sup>99</sup> Confidential source, February 2023.

<sup>100</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 4.

<sup>101</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 495; OHCHR, *Prevention of Torture: UN human rights body suspends Rwanda visit citing obstructions*, 20 October 2017; KT Press, *PST termination of Rwanda mission is in bad faith – Busingye*, 23 October 2017; The EastAfrican, *Rwanda: UN Rights Team, Rwanda Disagree*, 28 October 2017.

<sup>102</sup> Confidential source, April 2023.

### 2.4.3 *Violence and ill-treatment by security forces*

Although President Kagame and the Minister of Justice publicly condemned the use of excessive force by individual security personnel in 2020, ill-treatment by the police, armed forces and security services continued in this reporting period. According to various sources, there were numerous reports of the use of physical violence in law enforcement by members of the District Administration Security Support Organ (DASSO)<sup>103</sup>, especially in 2020 and 2021 in connection with the COVID-19 lockdown measures.<sup>104</sup>

For ill-treatment and torture in detention, see 4.2.

### 2.4.4 *Use of violence in Kiziba refugee camp*

In January 2018, Rwandan police fired live rounds of ammunition at participants in a demonstration held by several thousand Congolese refugees in the Kiziba refugee camp.<sup>105</sup> The refugees were protesting about their living conditions and a reduction in their food rations. Some refugees threw stones at the police. According to the Rwandan police, five refugees were killed in this incident. According to UNHCR, at least eleven were killed. Human Rights Watch stated that, according to witnesses, at least fifteen refugees had been killed and several others were missing. A few months later, in May 2018, tensions rose again and one person died and dozens of people were arrested. The Rwandan authorities disbanded the refugees' committee of representatives, after which many of them fled Rwanda.<sup>106</sup> According to a 2019 report by the Rwandan National Commission for Human Rights, eleven refugees had died. According to the Commission, the police only used live ammunition as a last resort, after all peaceful means had been exhausted, in response to an organised and violent attack by the refugees.<sup>107</sup> According to Human Rights Watch, between October 2018 and September 2019, 35 refugees were sentenced to prison terms ranging from three months to fifteen years. Twenty-two refugees were released.<sup>108</sup>

### 2.4.5 *Action by the authorities against torture*

According to confidential sources, the actions taken by the Rwandan authorities against ill-treatment, torture, disappearances, murders and extrajudicial executions were inadequate.<sup>109</sup> Although the Minister of Local Government stated in 2021 that all members of DASSO would receive human rights training, no action was taken on

<sup>103</sup> DASSO was established in 2013 and replaced the Local Defence Forces (LDF). DASSO officers are usually demobilised military personnel. They wear green uniforms and are equipped with batons. DASSO falls under the Ministry of Local Government, and its members are accountable to the mayor. Their duties include guarding local government buildings, making arrests and transporting suspects. In addition, they perform administrative tasks at police stations. Source: Lamarque, Hugh, 'Policing Small communities, Rwanda Law enforcement and the co-production of security', in *Politique Africaine*, 2020/4 (no 160), pp 113-138.

<sup>104</sup> Amnesty International, *2021 Annual report*, 2022, p 316; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 4-5; Confidential source, February 2023.

<sup>105</sup> Kiziba is the oldest refugee camp in Rwanda, and has the largest refugee population. It is located in the west of Rwanda. The camp was established in 1996, when large flows of refugees from the DRC came to Rwanda. In 2023 there were more than 17,000 refugees there. Source: UNHCR, [UNHCR Rwanda Kiziba Camp Profile April 2021.pdf](#), accessed 7 April 2023.

<sup>106</sup> RFI, *Rwanda: violences dans le camp de réfugiés congolais de Kiziba*, 3 May 2018; Human Rights Watch, *2019 World report. Events of 2018, 2019*, pp 492-493; Human Rights Watch, *2020 World report. Events of 2019, 2020*, pp 484-485.

<sup>107</sup> National Commission for Human Rights, *Summary of the NCHR report on Kiziba refugee camp incident*, 2019, [index.php \(cndp.org.rw\)](#), accessed 30 March 2023.

<sup>108</sup> Human Rights Watch, *2020 World Report. Events of 2019, 2020*, pp 484-485.

<sup>109</sup> Confidential source, February 2023; Confidential source, February 2023.

this. In some cases, the authorities took action against members of the armed forces, police and DASSO who used violence, but in general there was impunity – especially when political opponents were concerned.<sup>110</sup> The authorities also took no action against prison conditions that were regarded by prisoners as solitary confinement<sup>111,112</sup>

Since signing the Optional Protocol of the Convention against Torture (OPCAT), Rwanda has mandated the National Commission for Human Rights (NCHR) for the prevention of torture.<sup>113</sup> The Commission made regular visits to prisons and detention centres. It presented the results of these visits in its detailed annual reports. In the 2021-2022 report, the Commission stated that, based on visits to fourteen detention centres, it had been found that the rights of prisoners were being respected and no torture was taking place. The same applied to the seventy police cells that were visited, although the detainees there did not always have access to legal assistance, according to the Commission.<sup>114</sup> According to a confidential source, the Commission had close ties with the authorities, and often failed to investigate reports of human rights violations in politically sensitive cases.<sup>115</sup>

## 2.5 Disappearances

In 2021, Rwanda backtracked on earlier commitments in connection with the ratification of the Convention against Enforced Disappearances. In 2021, authorities rejected the recommendation made during the Universal Periodic Review (UPR) to sign the Convention against Enforced Disappearances.<sup>116</sup>

During the reporting period, temporarily missing persons were again reported several times as a result of kidnapping and incommunicado detention by the Rwandan authorities. In other cases, there was a suspicion of enforced disappearance.<sup>117</sup>

In 2017, Violette Uwamahoro disappeared for two weeks while visiting relatives in Rwanda.<sup>118</sup> Uwamahoro was the wife of a member of the opposition party Rwanda National Congress (RNC) who was resident in the UK and who had also been targeted by Pegasus spyware (see also 2.8.3). It later transpired that Uwamahoro, who was pregnant, had spent the two weeks in incommunicado detention.<sup>119</sup> In 2018, Dennis Karera (the brother of the Minister of Justice) and Karenzi Karake,

<sup>110</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 5; Confidential source, February 2023.

<sup>111</sup> Solitary confinement means that the prisoner has no contact with other prisoners. It is different from incommunicado detention, in which the prisoner has no contact with anyone, including his or her lawyer. In the case of incommunicado detention, the person's whereabouts are often unknown. Source: [Incommunicado gevangenschap - Amnesty International](#)

<sup>112</sup> Confidential source, June 2022.

<sup>113</sup> Association for the Prevention of Torture, *Rwanda: National Commission for Human Rights officially designated as national mechanism to prevent torture*, 20 September 2018.

<sup>114</sup> Rwanda National Human Rights Commission, *Annual report 2022*, pp 64, 76.

<sup>115</sup> Confidential source, April 2023.

<sup>116</sup> Amnesty International, *2021 Annual report*, 2022, p 315.

<sup>117</sup> Amnesty International, *2021 Annual report*, 2022, p 315; Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 24; Human Rights Watch, *2021 World report. Events of 2020, 2020*; Human Rights Watch, *2022 World report. Events of 2021, 2021*, pp 565-568; Human Rights Watch, *2023 World Report, Rwanda events of 2022, 2022*, pp 513-514; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 4.

<sup>118</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 25; Amnesty International, *2017 Annual report*, 2018, p 316; Financial Times, *Inside the WhatsApp hack: how an Israeli technology was used to spy*, 30 October 2019.

<sup>119</sup> Financial Times, *Inside the WhatsApp hack: how an Israeli technology was used to spy*, 30 October 2019.

former head of the Rwandan security service, temporarily disappeared. They were later released, but Karake has been under house arrest ever since.<sup>120</sup>

During the reporting period, several members of Victoire Ingabire's *Forces Démocratiques Unifiées* (United Democratic Forces, FDU-Inkingi<sup>121</sup>) opposition parties disappeared: Illuminée Iragena in 2016; Boniface Twagirimana, FDU-Inkingi's Vice President, in 2018 after allegedly escaping from prison; and Eugène Ndereyimana in July 2019.<sup>122</sup> In June 2021, Venant Abayisenga, a member of Development And Liberty For All (DALFA-Umurinzi<sup>123</sup>), Ingabire's new party, disappeared.<sup>124</sup> At the end of the reporting period, there was no news of the whereabouts of these individuals.<sup>125</sup>

In May 2021, Cassien Ntamuhanga, a former journalist and founder of an opposition party who was seeking asylum in Mozambique, was arrested by the Mozambican authorities and handed over to the Rwandan embassy. Ntamuhanga had been sentenced in absentia for terrorist activities a few weeks earlier. The authorities of both countries denied having Ntamuhanga in detention. No news was heard of him following his arrest in Mozambique.<sup>126</sup>

In 2021, Innocent Bahati, a poet who commented on social issues such as poverty and the effects of the COVID-19 lockdown through poems he recited on YouTube, disappeared. He had already been detained without charge for several months in 2017, after spending some days in incommunicado detention.<sup>127</sup> Attention was drawn to this case from various sides.<sup>128</sup>

### 2.5.1 Action by the authorities against disappearances

According to various sources, government agencies lacked the capacity and independence to investigate human rights violations effectively. Investigations into disappearances were rarely completed.<sup>129</sup> Concerning the disappearance of Innocent Bahati, the RIB stated that it had evidence that Bahati had fled to Uganda, had been in contact with 'anti-Rwandan movements' there and had then left for a third country. However, he remained untraceable.<sup>130</sup>

<sup>120</sup> The Advocates for Human Rights, *Rwanda Stakeholder Report for the United Nations Universal Periodic Review*, 9 July 2020, p 4; Media.com, *Kagame Made General Karake Disappear*, 7 August 2018; Human Rights Watch, *2019 World report. Events of 2018, 2019*, pp 493-494; Confidential source, March 2023.

<sup>121</sup> Inkingi means 'pillar' in Kinyarwanda. Source: Glosbe.com, accessed 6 April 2023.

<sup>122</sup> Amnesty International, *2017 Annual report*, 2018, p 316; Amnesty International, *2019 Human rights in Africa, annual report*, 2020, pp 65-66; Human Rights Watch, *2020 World report. Events of 2019, 2020*, p 482.

<sup>123</sup> Umurinzi means 'guardian' or 'protector' in Kinyarwanda. Source: Glosbe.com, accessed 6 April 2023.

<sup>124</sup> Human Rights Watch, *2022 World report. Events of 2021, 2022*.

<sup>125</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 3.

<sup>126</sup> RFI, *Exilé au Mozambique, le journaliste Cassien Ntamuhanga menacé d'extradition vers le Rwanda*, 3 June 2021; Human Rights Watch, *2022 World report. Events of 2021, 2022*, pp 565-566; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 13-14; The Elephant, *Where is Exiled Former Rwandan Journalist Cassien Ntamuhanga?*, 2 July 2022; Amnesty International, *2021 Annual report, 2022*, p 315.

<sup>127</sup> JamboNews, *Rwanda: Où est Innocent Bahati?*, 23 March 2021; The Guardian, *Margaret Atwood joins writers calling for urgent action over missing Rwandan poet*, 7 February 2022; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3.

<sup>128</sup> The Guardian, *Margaret Atwood joins writers calling for urgent action over missing Rwandan poet*, 7 February 2022; PEN International, *Open letter to President Paul Kagame on the disappearance of Innocent Bahati*, 7 February 2022; Confidential source, April 2023.

<sup>129</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3; Confidential source, February 2023; Confidential source, February 2023.

<sup>130</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 4; RFI, *Rwanda: le poète porté disparu Innocent Bahati est parti en Ouganda, selon les enquêteurs*, 18 February 2022; Confidential source, March 2023.



## 2.6 Murders and extrajudicial executions

Human rights organisations reported several murders and alleged extrajudicial killings during the reporting period.

In 2017, Human Rights Watch published a report entitled 'All thieves must be killed'. On the basis of 119 interviews with family members, witnesses and government representatives, the organisation stated that at least 37 suspects of minor offences such as theft, drug use and drug smuggling had been extrajudicially executed by the army, police and in some cases DASSO. The authorities were also said to encourage citizens to kill thieves.<sup>131</sup>

In 2018, the lawyer Donat Mutunzi, who was known for operating independently, was found dead in his cell under suspicious circumstances.<sup>132</sup> The same was true of the popular singer Kizito Mihigo, who was found dead in his cell in 2020, a few days after his arrest. Both Mutunzi and Mihigo were said to have committed suicide. According to Human Rights Watch, Mihigo had reported being threatened just before his death. He had been sentenced to ten years in prison in 2015, among other things for conspiracy, after he - himself a Tutsi survivor of the genocide - had released a song in which he expressed his sympathy to all who had been killed. Mihigo was released in 2018 after receiving a presidential pardon.<sup>133</sup>

On 18 January 2023, the independent journalist John Williams Ntwali was killed in a collision. The Rwandan police called it an accident, but human rights observers expressed doubts about this. When his death was announced by the authorities, he had been missing for two days. According to the authorities, he had been lying unidentified in the morgue during this time. Ntwali was the editor of *The Chronicles* newspaper and the owner of the YouTube news channel Pax TV - IREME News. Among other things, he reported on politically motivated trials against journalists and opposition members, and posted videos of their conditions in prison. Several sources described Ntwali as an important investigative journalist who was openly critical of President Kagame, often being the only journalist who dared to report on issues of political persecution and repression. Ntwali's latest video, dated 17 January 2023, was about the disappearance of a genocide survivor who said she was ill-treated by police. Ntwali had previously stated that he had been threatened several times and had survived staged accidents. After his death, his Twitter account disappeared.<sup>134</sup>

In 2019, two close colleagues of Victoire Ingabire (see also 2.9) were killed. Her personal assistant, Anselme Mutuyimana, was found dead in suspicious circumstances in March of that year, while the national coordinator of Ingabire's

<sup>131</sup> Human Rights Watch, 'All thieves must be killed': Extrajudicial executions in Western Rwanda, 13 July 2017.

<sup>132</sup> Musabyimana, *Rwanda: exécutions extrajudiciaires très significatives*, 24 April 2018, [Rwanda : Exécutions extrajudiciaires très significatives | Actualité/informations et documentation socio-politiques sur le Rwanda | musabyimana.net](#), accessed 19 March 2023; RFI, *Rwanda: deux avocats disparaissent en l'espace de deux mois*, 25 April 2018; Confidential source, June 2018.

<sup>133</sup> VOA, *Popular Rwandan Rapper Dies in Custody*, 2 September 2021; Human Rights Watch, *Entretien : Comment une chanson a scellé le sort de l'artiste rwandais Kizito Mihigo*, 17 February 2021; Amnesty International, *2021 Annual report*, 2022, p 316.

<sup>134</sup> NRC, *Dood criticus Rwanda 'verdacht'*, 24 January 2023; The Guardian, *Rwandan court fines speeding driver \$920 over death of campaigning journalist*, 7 February 2023; Index on Censorship, *Ntwali's death is a huge loss for Rwanda's challenging media landscape*, 24 January 2023; Jeffrey Smith (@Smith\_JeffreyT) on Twitter, [https://twitter.com/Smith\\_JeffreyT/status/1616146139358855168](https://twitter.com/Smith_JeffreyT/status/1616146139358855168), 19 January 2023; Confidential source, February 2023.



FDU-Inkingi party, Syldio Dusabumuremyi, was stabbed to death in September of that year.<sup>135</sup>

### 2.6.1 *Action by the authorities against murders and extrajudicial killings*

The authorities rarely published the results of investigations into possible murders and extrajudicial killings committed by or carried out on behalf of the authorities.<sup>136</sup> According to confidential sources, the actions of the authorities were neither sufficient nor credible nor effective.<sup>137</sup> In 2019, President Kagame called the EU human rights report 'ridiculous' and would not comment on questions about murders and attacks on critics in the run-up to the 2017 elections.<sup>138</sup> In 2020, both President Kagame and the Minister of Justice condemned the use of excessive force by individual police officers and promised to hold perpetrators accountable. Despite this, no independent investigation was launched into the death of the singer Mihigo, and the results of the autopsy ordered by the authorities were not made public.<sup>139</sup>

The RIB stated that it had investigated the deaths of Anselme Mutuyimana and Syldio Dusabumuremyi. Two people were arrested in the Dusabumuremyi case, but no full investigation into the Mutuyimana case was launched.<sup>140</sup>

In the Ntwali case, a man was convicted of 'unintentional manslaughter and involuntarily causing bodily harm' within three weeks after the incident. The trial had taken place almost entirely behind closed doors - except for the reading of the verdict, for which neither the accused nor the prosecutor were present. According to the judge, the accused had pleaded guilty and apologised. He was fined one million Rwandan francs<sup>141</sup> (about 860 euros).<sup>142</sup>

The Rwandan government rejected the Human Rights Watch report 'All thieves must be killed'.<sup>143</sup> According to research by the Rwandan National Commission for Human Rights, some of the victims named by Human Rights Watch were still alive, others had died of disease or accidents, and still others had been killed because they were in an area that had been cordoned off for security reasons and they ignored an order to stop. Some of them, it was claimed, had indeed been killed, but the perpetrators - a government official and civilians - had been tried and punished.<sup>144</sup> Following this incident, the Rwandan authorities denied entry to Rwanda to a Human Rights Watch investigator. A Rwandan consultant who was working for the

<sup>135</sup> Amnesty International, *2019 Human rights in Africa, annual report*, 2020, p 66; Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 482.

<sup>136</sup> US Department of States, *2022 Country report on human rights practices Rwanda, 2023*, pp 2-3.

<sup>137</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>138</sup> Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 486; France24, 'Just ridiculous': Rwanda's Paul Kagame dismisses EU human rights report, 24 June 2019, '[Just ridiculous': Rwanda's Paul Kagame dismisses EU human rights report - Talking Europe \(france24.com\)](https://www.france24.com/en/africa/20190624-just-ridiculous-rwanda-paul-kagame-dismisses-eu-human-rights-report-talking-europe-france24-com), accessed 17 March 2023.

<sup>139</sup> Amnesty International, *2021 Annual report*, 2022, p 316; Human Rights Watch, *2021 World report. Events of 2020, 2021*; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3.

<sup>140</sup> Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 482; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3.

<sup>141</sup> For context: According to Take-Profit.org, the average salary for the highly skilled was Rwf 538,400 (USD 564) per month in 2018, [Rwanda Wages 2023 | Minimum & Average | Take-profit.org](https://www.take-profit.org/rwanda-wages-2023-minimum-average), accessed 17 May 2023; according to BDEEX, the average salary in Rwanda was equivalent to USD 230 per month on 1 May 2023, [Salaries in Rwanda, average salaries in 2023 and 2022 | BDEEX USA](https://www.bdeex.com/salaries-in-rwanda-average-salaries-in-2023-and-2022), accessed 17 May 2023.

<sup>142</sup> The Guardian, *Rwandan court fines speeding driver \$920 over death of campaigning journalist*, 7 February 2023.

<sup>143</sup> IGIHE, *Rwanda rejects HRW's report on abusive prosecutions*, 16 March 2022.

<sup>144</sup> National Commission on Human Rights, *Report on investigations carried out by the National Commission for Human Rights in Rustiro and Rubavu districts on the Human Rights Watch report of July 2017*, October 2017, pp 3-4.

organisation was arbitrarily detained for six days, the first twelve hours of which were incommunicado.<sup>145</sup>

## 2.7 Position of specific groups

### 2.7.1 *Individuals perceived as a threat to state security*

People who disagreed with the course the country was taking and who criticised the authorities were at risk of intimidation, ill-treatment, disappearance or incommunicado detention, and in some cases murder (see also 2.4, 2.5, and 2.6).<sup>146</sup> According to several confidential sources, individuals who were seen as trying to stir up polarising feelings were particularly at risk of negative attention, both from the public and from the authorities.<sup>147</sup> Several sources agreed that the authorities had legitimate grounds for curbing the kind of hate speech that led to the 1994 genocide and for countering the return of ethnic politics. However, the Rwandan authorities left little room for debate or political and ideological diversity.<sup>148</sup> According to a confidential source, it was possible to discuss difficult subjects, for example about what the Hutu refugees had experienced after the genocide, but this had to be done with great tact and without any political agenda, otherwise the authorities would intervene.<sup>149</sup>

The law gives the Rwandan authorities almost unlimited rights to intercept communications, as long as this is deemed to be in the interests of the country's security and stability. Only the interception of communications by the President is prohibited. Interception of communications without authorisation from the authorities is illegal.<sup>150</sup> It is generally assumed that the Rwandan security services operate widely throughout society. In 2021, reports emerged that Rwanda was using the NSO spyware Pegasus to monitor political opposition, both at home and abroad (see also 2.8.3). In addition, the authorities had informants all over the country<sup>151</sup>, which meant that being unknown offered no protection.<sup>152</sup> According to a confidential source, an international reputation could provide some protection – in preventing diplomatic incidents – especially if the person did not have a major influence on Rwandan public opinion.<sup>153</sup>

#### 2.7.1.1 Members of political parties

<sup>145</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 491; Human Rights Watch, *2020 World report. Events of 2019*, 2019, p 483; Human Rights Watch, *2021 World report. Events of 2020*, 2021, pp 575-576.

<sup>146</sup> US Department of States, *2022 Country report on human rights practices Rwanda, 2023*, pp 2-4, 10-11; Confidential source, February 2023; Confidential source, February 2023.

<sup>147</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>148</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Confidential source, February 2023.

<sup>149</sup> Confidential source, February 2023.

<sup>150</sup> *N° 60/2013 of 22/08/2013 Law regulating the interception of communications*.

<sup>151</sup> Rwandan society has traditionally been organised on a strongly hierarchical basis from national to village level. The genocide has not changed this. Decision-making is top-down from the highest to the lowest administrative level, but intelligence originates at the lowest level of government and is passed upwards. Source: Andrea Purdekova, "Even if I am not here, there are so many eyes:" Surveillance and state reach in Rwanda', in *Journal of Modern African Studies*, 49, 3 (2011), pp 475-497; Confidential source, May 2023.

<sup>152</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 23; Hugh Lamarque, 'Policing Small communities, Rwanda Law enforcement and the co-production of security', in *Politique Africaine*, 2020/4 (no 160), p 114; The Guardian, *Rwandans have long been used to Pegasus-style surveillance*, 23 July 2021; Confidential source, February 2023.

<sup>153</sup> Confidential source, February 2023.

Membership of an opposition party (especially active membership) could be a factor in attracting negative attention from the Rwandan authorities, but was not a precondition for it. Negative attention seemed to stem from the nature of a person's activities and his or her outspokenness rather than from membership of a political party. Membership of the political opposition, criticism of the regime and statements interpreted as hate speech were quickly interpreted as identical and seen as mutually reinforcing.<sup>154</sup> Manipulation could also take place in such contexts: if someone was seen by the authorities as a threat to stability, others, whether acting on instructions or not, could associate them with other criminal activities.<sup>155</sup>

The opposition Green Party had some degree of freedom to operate.<sup>156</sup> The party won two seats in parliament in 2018.<sup>157</sup> According to confidential sources, the leader of the party was under enormous pressure to conform to the system and gain a seat in parliament in this way. The death of the second in command in the party was also said to have had a chilling effect.<sup>158</sup> André Kagwa Rwisereka was found virtually decapitated in 2010 after a disappearance of about a month.<sup>159</sup> The authorities said that Rwisereka had been killed in a robbery, but the party's president called it an assassination, telling the press that he and Rwisereka had received anonymous death threats.<sup>160</sup>

Others were given little or no opportunity to engage in politics.<sup>161</sup> In September 2017, opposition politician Diane Rwigara and her mother were arrested. Rwigara had put herself forward as a candidate for the August 2017 presidential election, but her candidacy was rejected because she allegedly had not collected enough signatures. In the days leading up to her arrest, Rwigara had spoken to the international media and said that she and her family had been harassed because she had been critical of the authorities.<sup>162</sup> Rwigara was acquitted and released on 6 December 2018, after more than a year of detention.<sup>163</sup> Rwigara's father was a wealthy industrialist who had been a long-time financier of the RPF, but was killed in a car accident in February 2015. According to the family, his death had been caused deliberately and the authorities were behind it.<sup>164</sup>

During the reporting period, at least fifteen people belonging to Victoire Ingabire's parties FDU-Inkingi and DALFA-Umurinzi were arrested and prosecuted on charges of forming/participating in an armed group, conspiring against the government and propagating false information (see also 2.3.4).<sup>165</sup> According to a confidential source,

<sup>154</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>155</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>156</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>157</sup> National Elections Commission, Parliamentary elections 2018 results, [URUTONDE RW ABADÉPITE BEMEJWE BY AGATEGANYO.pdf \(nec.gov.rw\)](#), accessed 22 March 2023.

<sup>158</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>159</sup> Jeune Afrique, *Le numéro deux d'un parti d'opposition retrouvé assassiné*, 14 July 2010; The New York Times, *Rwanda Opposition Figure Found Dead*, 14 July 2010.

<sup>160</sup> The New York Times, *Rwanda Opposition Figure Found Dead*, 14 July 2010.

<sup>161</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>162</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, p 492; TV5 Monde, *Rwanda: l'acquittement surprise de l'opposante Diane Rwigara*, 6 December 2018.

<sup>163</sup> TV5 Monde, *Rwanda: l'acquittement surprise de l'opposante Diane Rwigara*, 6 December 2018.

<sup>164</sup> The East African, *Family of deceased tycoon Assinapol Rwigara petitions President Kagame*, 14 March 2015.

<sup>165</sup> Human Rights Watch, *2021 World report, Events of 2020, 2021*, pp 573-575; Human Rights Watch, *Rwanda: Politician Convicted for Harming Rwanda's Image*, 18 January 2023; DefenceWeb, *Conspiracy jail sentences for Rwandan opposition*, 27 January 2020; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Human Rights Watch, *2023 World Report, Events of 2022, 2022*, pp 513-514; Defence Web, *Six people arrested in Rwanda, accused of spreading rumours*, 15 October 2021.

they were still in prison at the end of the reporting period, with no progress in their proceedings.<sup>166</sup>

A former editor of *The Chronicles* newspaper, Christopher Kayumba, established the political party *Rwandese Platform for Democracy* (RPD) in March 2021. Shortly afterwards, he was accused of rape by his former housekeeper. In September 2021, Kayumba was arrested and charged with rape and attempted rape. He was acquitted in February 2023 after a year and a half in pre-trial detention.<sup>167</sup> Jean Bosco Nkusi, in charge of recruitment for the RPD, was arrested in March 2021 and charged with fraud and forming a criminal organisation. He was sentenced to ten years in prison in April 2022.<sup>168</sup>

#### 2.7.1.2 Journalists and YouTubers

During the reporting period, there were several examples of journalists and YouTubers facing negative attention from the authorities (see also 2.2.5). The arrest of members of the political opposition parties FDU-Inkingi and DALFA-Umurinzi was discussed above. In October 2021, YouTuber Théoneste Nsengimana was arrested together with seven members of the political party DALFA-Umurinzi. Nsengimana was reportedly intending to cover Ingabire Day, an event at which Victoire Ingabire planned to speak about political repression in Rwanda. He was charged with 'spreading false information or harmful propaganda with intent to cause a hostile international opinion against Rwandan government'.<sup>169</sup> Judgment had not been passed in this case at the end of the reporting period. Nsengimana had already been arrested in 2020 for his reporting on the conditions of the COVID-19 lockdown and released on bail (see also 2.2.6).<sup>170</sup>

YouTubers Yvonne Idamange and Aimable Karasira, both genocide survivors, used their videos to discuss the 1994 genocide, including the crimes committed by the RPF in the aftermath.<sup>171</sup> Idamange was arrested in 2019 after she called for a demonstration against the government's alleged profiteering from the genocide. She was found guilty of a list of charges and given a fifteen-year prison sentence.<sup>172</sup> Karasira was also arrested in 2019 and prosecuted for genocide denial (see also 2.3).<sup>173</sup> According to Human Rights Watch, based on the evidence on which the courts made their rulings, these cases violated African and international human rights treaties and showed how little room there was for dissent in Rwanda.<sup>174</sup>

<sup>166</sup> Confidential source, April 2023.

<sup>167</sup> Human Rights Watch, *2023 World Report. Events of 2022*, 2022, pp 513-514; KT Press, Former university don Kayumba acquitted, 22 February 2023; Africa News, *Opposition figure Christopher Kayumba held for rape in Rwanda*, 10 September 2021.

<sup>168</sup> Human Rights Watch, *2023 World Report. Events of 2022*, 2022, pp 513-514; Les Mutikeys, *Rwanda : SOS pour Jean Bosco Nkusi détenu dans des condition inhumaines*, 6 May 2022.

<sup>169</sup> Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; CPJ, *Rwandan journalist Théoneste Nsengimana detained since October 13*, 3 November 2021.

<sup>170</sup> KT Press, *RMC, RURA caution journalists on violating COVID-19 measures*, 13 April 2020; Human Rights Watch, *2021 World report. Events of 2020, 2021*, pp 575-576.

<sup>171</sup> DW, *Rwanda: Yvonne Idamange a été condamnée à 15 ans de prison*, 1 October 2021; Human Rights Watch, *2020 World report. Events of 2019, 2020*; Le Monde Afrique, *La youtubeuse Yvonne Idamange condamnée à 15 ans de prison au Rwanda pour avoir critiqué le pouvoir*, 1 October 2021; CPJ, *Aimable Karasira Uzaramba imprisoned*, 31 May 2021.

<sup>172</sup> DW, *Rwanda : Yvonne Idamange a été condamnée à 15 ans de prison*, 1 October 2021; Human Rights Watch, *2020 World report. Events of 2019, 2020*; Le Monde Afrique, *La youtubeuse Yvonne Idamange condamnée à 15 ans de prison au Rwanda pour avoir critiqué le pouvoir*, 1 October 2021.

<sup>173</sup> CPJ, *Aimable Karasira Uzaramba imprisoned*, 31 May 2021; Human Rights Watch, *2020 World report. Events of 2019, 2020*.

<sup>174</sup> Human Rights Watch, *2020 World report. Events of 2019, 2020*.

In 2021, Innocent Bahati, a poet who commented on social issues such as poverty and the consequences of the COVID-19 lockdown through poems he recited on YouTube, disappeared.<sup>175</sup>

In October 2022, three people working for the YouTube channel Iwacu TV, Damascene Mutuyimana, Shadrack Niyonsenga and Jean Baptiste Nshimiyima, were acquitted of spreading false information with the intention of creating a hostile international opinion of Rwanda. Prosecutors had demanded prison sentences of more than 22 years. The three had spent more than four years in pre-trial detention.<sup>176</sup>

#### 2.7.1.3 Former insiders

People with some or all of the following characteristics were also at high risk of attracting negative attention: former membership of the security apparatus, having been a close confidant of the president, having a knowledge of state secrets, staying abroad for an extended period, and expressing criticism of the Rwandan authorities.<sup>177</sup> The best-known example is the murder of Colonel Patrick Karegeya, who was found dead in his hotel room in South Africa in 2014. Karegeya was a former head of the Rwandan security service and a founder member of the Rwanda National Congress (RNC), a Rwandan opposition party in exile.<sup>178</sup> South African officials said all the evidence pointed towards the Rwandan authorities.<sup>179</sup> In 2015, the Rwandan Major Robert Higiroti testified before the US Congress that the director of Rwandan military intelligence, Colonel Dan Munyza, had ordered him to assassinate Karegeya and General Kayumba Nyamwasa. Higiroti himself subsequently became the target of attempts by the Rwandan authorities to assassinate him.<sup>180</sup>

In 2018 Karenzi Karake, the former head of the Rwandan security service, and Dennis Karera, the brother of the Minister of Justice, disappeared. Both were released after several weeks of incommunicado detention, but Karenzi Karake has been under house arrest ever since.<sup>181</sup> A report by the *Organized Crime and Corruption Reporting Project* (OCCRP) referred to an internal Interpol document stating that an arrest warrant against Eugene Gasana, a former Kagame confidant, had been withdrawn because the charges were alleged to be politically motivated.<sup>182</sup>

#### 2.7.1.4 Family members

A Freedom House report identified intimidation and harassment of family members as one of the forms of cross-border repression engaged in by the Rwandan authorities. Nearly all the sources to whom Freedom House spoke when compiling

<sup>175</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3; JamboNews, *Rwanda: Où est Innocent Bahati?*, 23 March 2021; The Guardian, *Margaret Atwood joins writers calling for urgent action over missing Rwandan poet*, 7 February 2022.

<sup>176</sup> Human Rights Watch, *2023 World Report. Events of 2022*, 2022, pp 514-515.

<sup>177</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 23; Confidential source, February 2023; Confidential source, February 2023.

<sup>178</sup> Human Rights Watch, *2020 World report. Events of 2019, 2020*, p 484; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 13-14; Zembla, *De lange arm van Rwanda*, 12 September 2022.

<sup>179</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 13-14; Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 24; Zembla, *De lange arm van Rwanda*, broadcast on 15 September 2022.

<sup>180</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; US House of Representatives, *Testimony of Major, Robert Higiroti: Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations*, 27 September 2017.

<sup>181</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, pp 493-494; Confidential source, March 2023.

<sup>182</sup> OCCRP, *Rwanda Fed False Intelligence to U.S. and Interpol As It Pursued Political Dissidents Abroad*, 4 November 2022.

the report mentioned this.<sup>183</sup> In 2017, Violette Uwamahoro disappeared for two weeks while visiting relatives in Rwanda.<sup>184</sup> Uwamahoro was the wife of Faustin Rukundo, a member of the RNC resident in the UK who was also targeted by Pegasus spyware (see also 2.8.3).<sup>185</sup> It transpired that Rukundo's wife had spent the two weeks in police custody. She and a cousin who was a police officer were subsequently charged with, among other things, disclosing state secrets. The woman was eventually released on bail due to lack of evidence.<sup>186</sup> In another case, two brothers of Noel Zihabamwe, a resident of Australia, disappeared in 2019. According to Zihabamwe, his brothers disappeared a month after he refused to keep an eye on the diaspora in Australia on behalf of the Rwandan authorities.<sup>187</sup>

Several confidential sources stated that intimidation and harassment of family members certainly occurred, but not on a large scale.<sup>188</sup> According to a confidential source, it mainly affected people who engaged in opposition politics from abroad.<sup>189</sup>

## 2.8 The influence of the Rwandan authorities abroad

This section examines the influence of the Rwandan authorities abroad. For the treatment of returnees, see 3.6.

### 2.8.1 Government policy with regard to the diaspora

The Rwandan authorities actively sought to get the diaspora involved in and bring them back to Rwanda. Rwandans who had studied abroad were encouraged to use their knowledge and experience to benefit their country of origin. The Rwandan Ministry of Foreign Affairs had a directorate responsible for the diaspora.<sup>190</sup> Rwanda had an annual programme for students who were studying abroad and who returned for their vacations. This programme offered classes in history, economics, ideology, Kinyarwanda<sup>191</sup>, and in some cases a one-week military training course.<sup>192</sup> On 5 October every year, Rwanda Day, President Kagame met in person with the Rwandan diaspora in countries and cities with a large Rwandan community. The purpose of these meetings, according to the president himself, was 'to tell Rwandans what is expected of them and to give them an opportunity to say what they expect from Rwanda'.<sup>193</sup>

<sup>183</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 25.

<sup>184</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 25; Amnesty International, *2017 Annual report*, 2018, p 316; Financial Times, *Inside the WhatsApp hack: how an Israeli technology was used to spy*, 30 October 2019.

<sup>185</sup> Financial Times, *Inside the WhatsApp hack: how an Israeli technology was used to spy*, 30 October 2019.

<sup>186</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 25; Amnesty International, *2017 Annual report*, 2018, p 316; BBC News, *Violette Uwamahoro: Rwanda court releases UK woman*, 27 March 2017.

<sup>187</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 25; ABC, *Murder and abduction claims have Rwandan Government accused of intimidating critics in Australia*, 18 October 2020; Amnesty International, *2017 Annual report*, 2018, p 316; US Department of State, *2021 country report on human rights practices, Rwanda*, 2022.

<sup>188</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>189</sup> Confidential source, February 2023.

<sup>190</sup> Confidential source, February 2023.

<sup>191</sup> Kinyarwanda is the common language of all population groups in Rwanda and, together with English and French, one of the official languages of Rwanda.

<sup>192</sup> Jeune Afrique, *Rwanda – Paul Kagame : « Nous sommes allés au-delà de l'imaginable »*, 1 April 2019.

<sup>193</sup> Jeune Afrique, *Le Rwanda Day, vitrine du pays de Paul Kagame auprès de la diaspora*, 7 October 2019.

In 2018, the International Organisation for Migration (IOM) worked with the Rwandan authorities to map the Rwandan diaspora in the United Kingdom, Belgium, Germany and the Netherlands. The aim of this exercise was 'to gain insight into the socio-economic profiles of members of the diaspora, their skills and expertise, and their motivation to contribute to the development of Rwanda'.<sup>194</sup>

According to a confidential source, the Rwandan authorities were open to the new knowledge and ideas that the returning diaspora brought with them, as long as this was used to rebuild the country.<sup>195</sup>

### 2.8.2 Informant networks

The Rwandan state continued to be dominated by the Rwandan security apparatus during this reporting period. Public and confidential sources reported that the Rwandan authorities monitored the diaspora extensively and in some cases also operated abroad.<sup>196</sup>

The diaspora was monitored, among other things, by means of a network of informers.<sup>197</sup> According to various sources, the Rwandan embassies and diaspora organisations were used for this purpose.<sup>198</sup> Rwandans abroad were put under pressure to spy on the diaspora for the Rwandan authorities. There were reports of Rwandans abroad taking an oath of allegiance to the Rwandan government at the Rwandan embassy.<sup>199</sup> According to several confidential sources, Rwandans abroad were pressured to join a diaspora organisation, for example when they needed a service from the Rwandan embassy.<sup>200</sup> A confidential source stated that to a far greater extent than society in Rwanda itself, the diaspora remained very divided: ethnicity outside Rwanda mattered more, as did the question of whether one was in favour of or opposed to the Rwandan authorities. This distinction was apparent in who registered with the embassy and who did not.<sup>201</sup> Another confidential source reporting knowing individuals in Kenya, the United States and France who had refused to join a diaspora organisation and who were subsequently monitored by the Rwandan authorities.<sup>202</sup> According to Freedom House sources, even speaking to fellow Rwandans who had received negative attention from the Rwandan authorities was felt to be a risk.<sup>203</sup>

<sup>194</sup> IOM Rwanda, *Diaspora mapping information sheet*, September 2018, p 4; Confidential source, February 2023.

<sup>195</sup> Confidential source, February 2023.

<sup>196</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 23; ABC, *Spies in our suburbs*, 24 August 2019; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>197</sup> Zembla, *De lange arm van Rwanda*, broadcast on 15 September 2022; ABC, *Murder and abduction claims have Rwandan Government accused of intimidating critics in Australia*, 18 October 2020; ABC, *Spies in our suburbs*, 24 August 2019; Confidential source, February 2023; Confidential source, 10 February 2023.

<sup>198</sup> Zembla, *De lange arm van Rwanda*, broadcast on 15 September 2022; Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; Human Rights Watch, *2022 World report. Events of 2021, 2022*, pp 565-566; Confidential source, February 2023.

<sup>199</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; Andrew Harding, 'The Loyalty Oath Keeping Rwandans Abroad in Check', British Broadcasting Corporation, 18 November, 2020, transcript on LexisNexis; ABC, *Spies in our suburbs*, 24 August 2019; ABC, *Murder and abduction claims have Rwandan Government accused of intimidating critics in Australia*, 18 October 2020; US House of Representatives, Testimony of Major, Robert Higiroy: Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, 27 September 2017.

<sup>200</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>201</sup> Confidential source, February 2023.

<sup>202</sup> Confidential source, February 2023.

<sup>203</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 22.

### 2.8.3 *Spyware*

Various public and confidential sources reported on the use of spyware by the Rwandan authorities. In 2019, *The Financial Times* reported that a hack of the messaging application WhatsApp had made it possible to undetectably install Pegasus spyware on mobile phones. This spyware allowed access to phone users' personal data, such as encrypted messages and locations. According to the newspaper, it was not possible to determine which countries had installed this spyware, but internal research by WhatsApp showed that the list of numbers being spied on included a large number of Rwandans.<sup>204</sup> In July 2021, Amnesty International and the journalist network Forbidden Stories published their analysis of a leak of over fifty thousand phone numbers of potential Pegasus targets. They reported that it showed that more than 3,500 activists, journalists, domestic and foreign politicians and diplomats inside and outside Rwanda had been identified by the Rwandan authorities as possible targets of spyware since 2016.<sup>205</sup>

Identified targets included members of UDF-Inkingi and the RNC and relatives of figures such as Karegeya and Rusesabagina. Several other sources reported warnings by European security services to residents of Rwandan descent and spyware being found on phones, including that of a European journalist who is married to a Rwandan and reports on Rwanda, and that of a European minister.<sup>206</sup>

### 2.8.4 *Feeding of false information*

According to a report by the Organised Crime and Corruption Research Project (OCCRP), the Rwandan security services had been feeding false information to the US authorities about residents of Rwandan descent for years. This was said to be revealed in a confidential document produced by the US Federal Bureau of Investigation (FBI). According to the FBI's own investigation, allegations by the Rwandan authorities that certain members of the Rwandan opposition party the RNC had ties to anti-Rwandan groups in Central Africa had turned out to be unfounded.<sup>207</sup> There were also reports of groundless or politically motivated arrest warrants. For example, Interpol is said to have withdrawn an arrest warrant against Eugene Gasana. In 2018, a German court ruled that there was insufficient evidence against Enoch Ruhigira, a former aide to President Habyarimana. Ruhigira had been arrested on the basis of an arrest warrant issued by Rwanda. He was not deported to Rwanda.<sup>208</sup>

<sup>204</sup> Financial Times, *Inside the WhatsApp hack: how an Israeli technology was used to spy*, 30 October 2019; Human Rights Watch, *2020 World report. Events of 2019, 2020*, p 485.

<sup>205</sup> Amnesty International, *Pegasus Project: Rwandan authorities chose thousands of activists, journalists and politicians to target with NSO spyware*, 19 July 2021; OCCRP, *Who's on the list – The Pegasus project*, [Who's on the List – The Pegasus Project | OCCRP, accessed 16 April 2023](#).

<sup>206</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 25; Zembla, *De lange arm van Rwanda*, broadcast on 15 September 2022; Amnesty International, *2021 Annual report, 2022*, p 315; Financial Times, *Inside the WhatsApp hack: how an Israeli technology was used to spy*, 30 October 2019; Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 22; Human Rights Watch, *2020 World report. Events of 2019, 2020*, p 485; Human Rights Watch, *2022 World Report, Events of 2021, 2021*, pp 565-566; Confidential source, February 2023; Confidential source, February 2023.

<sup>207</sup> OCCRP, *Rwanda Fed False Intelligence to U.S. and Interpol As It Pursued Political Dissidents Abroad*, 4 November 2022.

<sup>208</sup> JusticeInfo.net, *Retour sur l'arrestation à la demande du Rwanda, en Allemagne, d'Enoch Ruhigira, ex-directeur de cabinet du président Juvénal Habyarimana*, 17 October 2016; Confidential source, March 2023.



### 2.8.5 *Intimidation, disappearances and murders abroad*

The repression of critics, opponents and dissidents by the Rwandan authorities extended beyond the country's borders.<sup>209</sup> Between 2014 and 2022, Rwandans were the target of physical attacks by representatives of the Rwandan authorities in at least seven countries, including the DRC, Kenya, South Africa, the United Arab Emirates and Germany, according to Freedom House.<sup>210</sup>

Examples from the reporting period of active interference abroad by the Rwandan authorities were the kidnappings of Paul Rusesabagina in 2020 and – probably – of Cassien Ntamuhanga in 2021 (see also 2.1 and 2.5).

In February 2021, Seif Bamporiki, a member of the opposition party the RNC, was assassinated South Africa. According to other members of the party, the Rwandan authorities were responsible for this. The South African authorities said that it could also have been a robbery.<sup>211</sup>

In September 2021, former army officer Révocat Karemangingo was shot dead in Mozambique under unclear circumstances.<sup>212</sup> Karemangingo had been an officer in the FAR, the army that orchestrated the 1994 genocide. According to reports, the assailants drove into Karemangingo's car with two cars and then shot him six times. According to members of the diaspora, Karemangingo had already survived an attempt on his life in 2016.<sup>213</sup>

Many countries, such as Belgium, the United States, the United Kingdom, Canada, Sweden, Australia and South Africa, were aware of transnational repression by the Rwandan authorities and in some cases warned residents of Rwandan origin in their countries.<sup>214</sup>

## 2.9 **Victoire Ingabire**

### 2.9.1 *Conviction of Ingabire*

Victoire Ingabire is a Rwandan politician. She was in the Netherlands at the time of the genocide in 1994 and decided to remain there.<sup>215</sup> In January 2010 she returned to Rwanda after sixteen years of exile, with the aim of registering her party FDU-

<sup>209</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 11; Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, pp 22-23; Zembla, *De lange arm van Rwanda*, broadcast on 15 September 2022; ABC, *Murder and abduction claims have Rwandan Government accused of intimidating critics in Australia*, 18 October 2020; ABC, *Spies in our suburbs*, 24 August 2019.

<sup>210</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 22.

<sup>211</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 13-14; US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 11; BBC News, *Rwandan Seif Bamporiki killed in South Africa*, 22 February 2021.

<sup>212</sup> Human Rights Watch, *2022 World report. Events of 2021*, 2022, pp 565-566; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 13-14.

<sup>213</sup> BBC News, *Rwandan ex-army officer gunned down in Mozambique*, 14 September 2021; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 13-14.

<sup>214</sup> Freedom House, *Out of sight, not out of reach, The global scale and scope of transnational repression. Case study Rwanda*, February 2022, p 26; Zembla, *De lange arm van Rwanda*, broadcast on 15 September 2022; ABC, *Murder and abduction claims have Rwandan Government accused of intimidating critics in Australia*, 18 October 2020; OCCPR, *Rwanda Fed False Intelligence to U.S. and Interpol As It Pursued Political Dissidents Abroad*, 4 November 2022; Confidential source, February 2023.

<sup>215</sup> NRC Handelsblad, *Een Rwandese politica in Zevenhuizen*, 17 September 2018.

Inkingi ahead of the presidential elections in August 2010.<sup>216</sup> On the day of her return, she laid a wreath at the genocide memorial and expressed her hope that perpetrators of crimes against the Hutu in 1994 would also be brought to justice. She was arrested on 21 April that year and released on bail a day later.<sup>217</sup> In October 2010 she was arrested again.<sup>218</sup>

At the request of Rwanda, the Dutch police searched Ingabire's house in Zevenhuizen in December 2010. The seized items, such as documents relating to money transfers to the DRC, were handed over to the Rwandan authorities.<sup>219</sup> In 2011, Ingabire was charged in Rwanda with terrorist activities, genocide ideology, divisionism<sup>220</sup> and sedition, and in October 2012 she was sentenced to eight years in prison. At the end of 2013, the Supreme Court upheld the conviction and increased the sentence to fifteen years.<sup>221</sup>

### 2.9.2 Release of Ingabire

In November 2017, the African Court on Human and Peoples' Rights ruled that Ingabire's conviction was 'not necessary' in a democracy. The Court also stated that even if it had accepted that there was a need to put restrictions on Ingabire's statements, the punishment imposed by the Rwandan court was not proportionate to the offence. The Court ordered the Rwandan authorities to restore Ingabire's rights within six months.<sup>222</sup> The Rwandan authorities complained about the 'politicisation' of the Court and refused to implement the Court's judgment. According to her lawyer, Ingabire's detention conditions became worse after the African Court's judgments: she was no longer allowed to speak to her family members.<sup>223</sup>

In 2018, Ingabire was released along with more than 2,000 other prisoners under a presidential pardon.<sup>224</sup> However, she was not allowed to leave Rwanda without permission from the Rwandan authorities, and requests to leave were rejected several times.<sup>225</sup> According to Human Rights Watch, the RIB repeatedly searched her home in 2020 and confiscated property. Ingabire also had to report regularly for questioning.<sup>226</sup>

<sup>216</sup> Amnesty International, *The State of the World's Human Rights - Rwanda*, 23 May 2013; BBC Monitoring, *Rwanda's Victoire Ingabire among freed Kagame critics*, 15 September 2018; Nederlands Dagblad, *Rwandese resident laat politica Ingabire vrij*, 17 September 2018; Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, 18 August 2016, pp 26, 48.

<sup>217</sup> Jeune Afrique, *Rwanda, Arrestation de l'opposante Victoire Ingabire*, 21 April 2010.

<sup>218</sup> Le Monde Afrique, *L'Opposante Rwandaise Victoire Ingabire arrêtée à Kigali*, 14 October 2010.

<sup>219</sup> NRC, *Rwanda berecht Hutu-politica; m/v in het nieuws Victoire Ingabire*, 5 September 2011; NRC Handelsblad, *Een Rwandese politica in Zevenhuizen*, 17 September 2018.

<sup>220</sup> The term divisionism refers to Law No 47/2001 of December 2001 instituting punishment for offences of discrimination and sectarianism, in which discrimination and divisionism are made criminal offences.

<sup>221</sup> Amnesty International, *The State of the World's Human Rights - Rwanda*, 23 May 2013; BBC Monitoring, *Rwanda's Victoire Ingabire among freed Kagame critics*, 15 September 2018; Nederlands Dagblad, *Rwandese resident laat politica Ingabire vrij*, 17 September 2018; Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, 18 August 2016, pp 26, 48.

<sup>222</sup> African Court on Human and Peoples' Rights, *In the matter of Ingabire Victoire Umuhoza vs the Republic of Rwanda*, application 003/2014, 27 November 2017, § 162.

<sup>223</sup> RFI, *Le Rwanda refuse de rétablir Victoire Ingabire dans ses droits*, 29 May 2018.

<sup>224</sup> Deutsche Welle, *Rwandan opposition figure Victoire Ingabire seeks reconciliation in her homeland*, 4 September 2022; BBC Monitoring, *Rwanda attack: Opposition leader Victoire Ingabire summoned*, 8 October 2019; BBC Monitoring, *Rwanda's Victoire Ingabire among freed Kagame critics*, 15 September 2018; Nederlands Dagblad, *Rwandese president laat politica Ingabire vrij*, 17 September 2018.

<sup>225</sup> Al Jazeera, *My story: Being an opposition figure in Rwanda*, 20 April 2022; Associated Press, *Rwanda opposition leader says she was barred from traveling*, 6 December 2019.

<sup>226</sup> Human Rights Watch, *2021 World report. Events of 2020, 2021*, p 573.

### 2.9.3 *Ingabire establishes a new party*

In 2019, Ingabire left FDU-Inkingi after leading the party for thirteen years and established a new party, DALFA-Umurinzi.<sup>227</sup> FDU-Inkingi was part of a coalition of five Rwandan opposition movements, Platform P5. Ingabire left FDU-Inkingi after members of other movements in this platform engaged in an armed attack from DRC on the Rwandan tourist town of Kinigi in which fourteen people were killed.<sup>228</sup> According to a *BBC Monitoring* article, political analysts saw Ingabire's move as a way of avoiding accountability for the armed actions of the P5 groups.<sup>229</sup>

### 2.9.4 *Political influence of Ingabire*

According to confidential sources, in Rwanda Ingabire is seen as someone who polarises and practises opposition politics lacking in substance, which does not make her especially popular either with the authorities or with large parts of the population.<sup>230</sup> Her limited popularity, combined with the fact that she is internationally known, could explain why, although she is not free to leave the country, she is no longer in prison (see also 2.9.2).<sup>231</sup>

## 2.10 **National and international organisations**

Since 2012, Rwanda has had various laws regulating the registration and operation of national, international and religious non-governmental organisations.<sup>232</sup> According to confidential sources, the Rwandan authorities had announced a review of this legislation in 2019, but this process was not transparent and civil-society organisations were not aware of developments.<sup>233</sup>

According to confidential sources, national and international NGOs were generally able to operate fine when it came to providing services; human rights organisations tended to have a more difficult time.<sup>234</sup> The authorities imposed labour-intensive registration procedures.<sup>235</sup> Several organisations, including Human Rights Watch, had serious problems in obtaining work permits.<sup>236</sup> As a result, some were denied access to Rwanda. In 2018, a Rwandan consultant who worked for Human Rights Watch, was arbitrarily detained for six days, the first twelve hours of which were

<sup>227</sup> BBC Monitoring, *Rwanda links opposition figure to ethnic recruitment*, 13 May 2019; BBC Monitoring, *Rwanda attack: Opposition leader Victoire Ingabire summoned*, 8 October 2019; BBC Monitoring, *Rwandan opposition leader decamps and forms new party*, 11 November 2019.

<sup>228</sup> Infos Grands Lacs, *FDLR was behind Musanze attack which killed 14 people*, 7 October 2019.

<sup>229</sup> BBC Monitoring, *Rwanda links opposition figure to ethnic recruitment*, 13 May 2019; BBC Monitoring, *Rwanda attack: Opposition leader Victoire Ingabire summoned*, 8 October 2019; BBC Monitoring, *Rwandan opposition leader decamps and forms new party*, 11 November 2019.

<sup>230</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>231</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>232</sup> Law N°04/2012 of 17/02/2012 governing the organization and the functioning of national non governmental organisations; Law N°05/2012 of 17/02/2012 governing the organization and functioning of international non governmental organisations; Law 06/2012 of 17/02/2012 determining organization and functioning of religious-based organisations.

<sup>233</sup> Confidential source, February 2023; Confidential source, May 2023.

<sup>234</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 22-23; Confidential source, March 2023; Confidential source, February 2023; Confidential source, March 2023.

<sup>235</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 22-23; Bertelsmann Stiftung, Bertelsmann Stiftung, *BTI 2022 Country report Rwanda*, 2022, p 26.

<sup>236</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 419; Confidential source, March 2023; Confidential source, April 2023.

incomunicado.<sup>237</sup> Obtaining a work visa for foreigners working for international NGOs also depended on whether the position could be filled by Rwandans.<sup>238</sup> According to another confidential source, the Rwandan authorities' main policy goal was to stay well informed about what international organisations were doing in Rwanda.<sup>239</sup>

## **2.11 Free movement between Rwanda and Uganda**

On 31 January 2022, Rwanda reopened the border crossing with Uganda at Gatuna after a closure of three years. Rwanda had closed the border in February 2019 after accusing Uganda of supporting Rwandan rebels seeking to overthrow President Kagame's regime.<sup>240</sup> The border remained closed during the Covid-19 crisis.<sup>241</sup>

Under the Common Market Protocol, citizens of the East African Community (EAC) member states<sup>242</sup> should be able to travel between member states using a machine-readable national identity card. Uganda and Rwanda were the only countries to issue identity cards that met the requirements.<sup>243</sup>

According to a confidential source, the Rwandan authorities discouraged Rwandans from crossing the border into Uganda by requiring PCR tests from people leaving Rwanda. Uganda did not require such testing. Foreigners who wished to settle in Rwanda had to have a job and submit a guarantee statement from the employer to the Rwandan authorities. It was easier for Rwandans to settle in Uganda.<sup>244</sup>

## **3 The judicial process in criminal justice**

### **3.1 Developments in the administration of justice**

#### *3.1.1 The regular administration of justice*

Regular criminal proceedings in Rwanda have five judicial instances: the primary courts, the intermediate courts, the high court, the court of appeal and the supreme court. In addition, there are specialised courts such as military and commercial courts. The jurisdiction of the courts is determined by law.<sup>245</sup>

Rwanda has 41 primary courts that hear both civil and criminal cases. The 12 intermediate courts deal with civil, criminal and administrative law and can hear appeals from the primary courts. The high court is based in Kigali and has five chambers across the country; the fifth chamber of the high court is the specialised

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<sup>237</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, p 419; Confidential source, March 2023; Confidential source, March 2023.

<sup>238</sup> Confidential source, February 2023; Confidential source, April 2023.

<sup>239</sup> Confidential source, March 2023.

<sup>240</sup> Deutsche Welle, *Rwanda reopens land border with Uganda*, 31 January 2022.

<sup>241</sup> Confidential source, April 2023.

<sup>242</sup> The EAC's member states are Burundi, DRC, Kenya, Uganda, Rwanda, Tanzania and South Sudan.

<sup>243</sup> Caroline Kago and Wanyama Wasinde, *Free Movement of Workers in the EAC*, 7 December 2022, p 348.

<sup>244</sup> Confidential source, February 2023.

<sup>245</sup> *N°30/2018 of 02/06/2018 Law determining the jurisdiction of courts.*

chamber dealing with international crimes.<sup>246</sup> This specialised chamber moved from Kigali to Nyanza in 2018.<sup>247</sup>

In 2018, Rwanda established the court of appeal to hear appeals from the high court (including the specialised chamber for international crimes), the high commercial court and the high military court.<sup>248</sup> The intention was to reduce the case load on the supreme court and enable backlogs to be cleared.<sup>249</sup> In practice, the possibility of appealing led to an increased case load and a longer backlog in the court system.<sup>250</sup>

In the second half of 2022, two major policy reforms for the justice sector were presented, the goal of which was to tackle the excessive load on the prisons and the justice system. The first reform involved encouraging the use of alternative forms of conflict resolution, such as more traditional forms of mediation<sup>251</sup> but also court-based mediation. The intention was that specific attention would be paid to subjects such as reconstruction and trauma.<sup>252</sup>

The second reform aimed to reduce prison overcrowding by means of: alternative forms of punishment such as electronic ankle tags or community service; the use of bail; the abolition of minimum and mandatory sentences and more freedom for the judge to assess whether there are mitigating or aggravating circumstances; and separating convicted prisoners from suspects being held in detention. Both reforms required additional legislative amendments, and professionals need to be trained for mediation. It was therefore not possible to make any statement about the impact of the policy.<sup>253</sup>

After the cabinet agreed to the reforms, several thousand prisoners were released on bail. Since October 2022, experiments have also been carried out with plea bargaining. According to a confidential source, there were risks associated with this, especially for the high numbers of young suspects, who regularly appear before a court without the involvement of a lawyer or without the necessary knowledge and therefore cannot fully understand exactly what pleading guilty will mean for them.<sup>254</sup>

### 3.1.1.1 Regular courts and genocide cases

<sup>246</sup> Government of Rwanda website, *Judiciary*, [Government of Rwanda: Judiciary \(www.gov.rw\)](http://www.gov.rw), accessed 23 March 2023.

<sup>247</sup> The New Times, *The international crimes High Court chamber inaugurated in Nyanza*, 29 June 2018; International Commission of Jurists, *Monitoring report on Jean Baptiste M., December 2019-February 2020*, § 20.

<sup>248</sup> Rwanda judiciary website, *Court of Appeal*, [Court of Appeal \(judiciary.gov.rw\)](http://judiciary.gov.rw), accessed 23 March 2023.

<sup>249</sup> The New Times, *Judicial reforms to reduce case backlog – Chief Justice*, 29 July 2018; Confidential source, February 2023.

<sup>250</sup> Confidential source, December 2022.

<sup>251</sup> Mediation by village elders was the way local communities had settled disputes in Rwanda for centuries. After the genocide, this form of traditional justice was also used on a large scale to handle hundreds of thousands of genocide cases. The *gacaca* courts no longer exist, but since 2004 the *abunzi* **have been used, especially in rural areas**. The *abunzi* ('those who reconcile') are mediators elected by the local community who are used for minor disputes. Although Rwanda was very familiar with traditional forms of mediation, in practice very little use was made of them, because Rwandan society had increasingly made use of Western legal systems since colonisation. Source: Confidential source, December 2022.

<sup>252</sup> Rwanda Ministry of Justice, *Alternative Dispute Resolution policy*, September 2022, [index.php \(risa.rw\)](http://index.php (risa.rw)), accessed 28 March 2023; Confidential source, December 2022; Confidential source, February 2023.

<sup>253</sup> Rwanda Ministry of Justice, *Criminal justice policy*, September 2022, [index.php \(risa.rw\)](http://index.php (risa.rw)), accessed 28 March 2023; Confidential source, December 2022; Confidential source, February 2023.

<sup>254</sup> Confidential source, December 2022.

The main perpetrators<sup>255</sup> of acts of genocide and war crimes during the period between 1 October 1990 and 31 December 1994 fall under the jurisdiction of the intermediate courts; all other defendants in genocide cases fall under the jurisdiction of the primary courts.<sup>256</sup>

### 3.1.2 *Military courts*

There were no reported developments in relation to the military courts.

Rwanda has a military court at first instance and a military high court at appeal level. The military prosecution (or *auditorat militaire*) is subordinate to the Ministry of Defence; the judges are subordinate to the supreme court, but are military personnel. Military courts had jurisdiction over all crimes committed by military personnel<sup>257</sup>, including genocide.<sup>258</sup> Former FAR officer Henri Jean Claude Seyoboka, who was deported by Canada in 2016, was tried by a military court.<sup>259</sup> According to the US State Department human rights report, the military continued to try military and former military personnel on a regular basis, with prison sentences and fines being imposed. Defendants had the same rights in military courts as in ordinary courts, including the right to appeal. In practice, defendants often had no access to legal assistance, both because of the cost of a lawyer and because of lawyers' unwillingness to take on cases involving state security.<sup>260</sup>

### 3.1.3 *ICTR*

When the ICTR ended its activities on 31 December 2015, some suspects were handed over to the Rwandan authorities. The IRMCT (see also 1.5.1) took over the remaining activities from the ICTR, including archive management and tracking fugitive suspects.<sup>261</sup> On 16 May 2020, the fugitive Félicien Kabuga was arrested in France. With the establishment of the IRMCT, it was intended that the cases of Kabuga and two other fugitives, Augustin Bizimana and Protais Mpiranya, would also be tried. However, the deaths of Bizimana and Mpiranya were confirmed by the IRMCT in 2022 and 2020 respectively.<sup>262</sup> As a result, Kabuga's was the only case that remained for the IRMCT to try. His arrest was the joint work of the French authorities and the IRMCT's prosecutor. In October 2020, Kabuga was handed over by the French authorities to the Hague branch of the IRMCT; the judges there ruled that for health reasons it would be better for Kabuga to be tried in The Hague than

<sup>255</sup> Under the law, primarily responsible means: a) any person having committed offences that place him/her in the category of masterminds, planners, instigators, supervisors and leaders of genocide or other crimes against humanity with his/her accomplices; or b) any person who was at that time (during the 1994 genocide) in the administrative organs at the national or prefectural level and his/her accomplices. Source: *N°30/2018 of 02/06/2018 Law determining the jurisdiction of courts*, Article 29.

<sup>256</sup> *N°30/2018 of 02/06/2018 Law determining the jurisdiction of courts*, Articles 26, 29 and 42; Confidential source, February 2023.

<sup>257</sup> [MOD: Military Justice System](#); US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 12; Confidential source, February 2023.

<sup>258</sup> The New Times, *Genocide convict Seyoboka appeals against life sentence at Military High Court*, 31 May 2021.

<sup>259</sup> The New Times, *Military court to start hearing witnesses in Seyoboka Genocide case*, 9 February 2018; The New Times, *Genocide convict Seyoboka appeals against life sentence at Military High Court*, 31 May 2021.

<sup>260</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 12.

<sup>261</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, pp 33.

<sup>262</sup> [MPIRANYA, Protais \(MICT-12-02\) | UNITED NATIONS | International Residual Mechanism for Criminal Tribunals \(irmct.org\)](#); [DECEASED - BIZIMANA, Augustin \(MICT-13-39\) | UNITED NATIONS | International Residual Mechanism for Criminal Tribunals \(irmct.org\)](#), both accessed 30 May 2023.

in Arusha.<sup>263</sup> The trial started in September 2022 and was paused in 2023 for an independent medical examination.<sup>264</sup>

One of the last four fugitive suspects whose cases the ICTR had handed over to Rwanda, Fulgence Kayishema, was arrested in South Africa on 26 May 2023.<sup>265</sup>

## 3.2 Gacaca archives

Rwanda worked on the digitisation of the gacaca archives. This digitisation had two purposes: to secure the documents so that they could not be lost through fire or any other kind of damage, and to increase the accessibility of the archives. The digitisation of the approximately fifty million documents from the gacaca archives was completed during the reporting period, but each document still had to be linked to a suspect, a district, a sector or a *cellule*.<sup>266</sup> Due to the COVID-19 pandemic, however, this process of indexing the documents and making them accessible was delayed.<sup>267</sup> According to an article in the local press, the Rwandan authorities stated that the archives will therefore become public in 2024.<sup>268</sup> In the meantime, there was limited access to the archives.<sup>269</sup>

## 3.3 Transfer Law

### 3.3.1 Guarantees

For the transfer of suspects by the ICTR to Rwanda and their trial there, the tribunal required certain guarantees with regard to the judicial process in Rwanda. To meet these requirements, in 2007 Rwanda abolished the death penalty and adopted the Transfer Law<sup>270</sup>. This law, which was revised in 2013, contains certain guarantees regarding the judicial process and detention conditions in Rwanda for suspects who are to be extradited and for those whose criminal prosecution is transferred.<sup>271</sup> The Transfer Law, according to Article 3 of the law, applies to the transfer by the ICTR or other states to Rwanda of cases relating to the 1994 genocide and other crimes against humanity.<sup>272</sup> The law also applies to other (non-genocide) court cases when a prosecution is transferred from another state to Rwanda and in instances where Rwanda requests the extradition of suspects.<sup>273</sup> The Transfer Law applies to all

<sup>263</sup> International Residual Mechanism for Criminal Tribunals, [KABUGA, Félicien \(MICT-13-38\) | UNITED NATIONS | International Residual Mechanism for Criminal Tribunals \(irmct.org\)](#), accessed 15 March 2023.

<sup>264</sup> ABC News, *Trial of Rwandan genocide suspect Felicien Kabuga suspended over dementia claims*, 11 March 2023; Confidential source, April 2023.

<sup>265</sup> Jeune Afrique, *Génocide des Tutsi au Rwanda: Fulgence Kayishema arrêté en Afrique du Sud*, 27 May 2023; BBC News, *Fulgence Kayishema: Rwandan accused of killing 2,000 in church arrested*, 26 May 2023.

<sup>266</sup> Cellules are geographical units in Rwanda.

<sup>267</sup> Aegis, *Project proposal. Completion of Gacaca archive project*, March 2022.

<sup>268</sup> Africa Press, *Public to access digitalised Gacaca archives in 2024*, 25 February 2022.

<sup>269</sup> Confidential source, April 2023.

<sup>270</sup> The previous country of origin information report of 2016 referred to a law on extradition. In this report, it has been decided to use the English name of the law, as this is the most widely known.

<sup>271</sup> Liking Ng, *The Transfer Cases of the ICTR to the Republic of Rwanda: The challenges of implementing Rule 11 bis*, May 2014, p II; Confidential source, February 2023; Confidential source, February 2023.

<sup>272</sup> It is not stated anywhere that the surrendering country must actively invoke the Transfer Law. It is unclear whether the law automatically applies to all extradition cases. However, it is up to the surrendering country to appoint an independent observer; this does not happen automatically.

<sup>273</sup> *N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date*, Article 3.

extraditions and transfers; it does not specify that states must actively invoke the Transfer Law.

In the event of any conflict between the Transfer Law and other laws, the Transfer Law prevails. Unless the Transfer Law contains specific provisions, the Rwandan Penal Code also applies to extradited suspects.<sup>274</sup>

A non-exhaustive list of guarantees under the Transfer Law is given below. These guarantees only apply to suspects who are extradited under this law, which entails a treatment of suspects that is different from that under regular Rwandan criminal law.<sup>275</sup> States extraditing suspects or transferring cases may choose to stipulate guarantees beyond those provided by the Transfer Law.

#### 3.3.1.1 Detention conditions

Article 26 of the Transfer Law sets minimum requirements for detention conditions for suspects and convicted prisoners, referring to the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.<sup>276</sup> To meet these requirements, the suspects and convicted prisoners were detained in special international wings of the prisons.<sup>277</sup> For more information on detention conditions under the Transfer Law, see 4.1.1.7.

#### 3.3.1.2 Legal assistance

The Transfer Law guarantees the right to be represented by a lawyer of one's choice. If the suspect cannot afford to pay for legal assistance, the Transfer Law guarantees legal assistance paid for by the authorities.<sup>278</sup> An application can be made for this in Rwanda.<sup>279</sup>

#### 3.3.1.3 Monitoring

If the surrendering country so chooses, the cases of extradited suspects may also be monitored by an independent observer, who may be appointed by the extraditing country.<sup>280</sup> According to a confidential source, persons who were extradited and for whom the extraditing country had not appointed an independent observer were also tried under the conditions of the Transfer Law and detained in the international prison wings.<sup>281</sup>

<sup>274</sup> N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date, Article 27.

<sup>275</sup> Liking Ng, *The Transfer Cases of the ICTR to the Republic of Rwanda: The challenges of implementing Rule 11 bis*, May 2014, p II; Confidential source, February 2023; Confidential source, February 2023.

<sup>276</sup> [UN Body of Principles](#) for the Protection of all persons under any Form of Detention or Imprisonment, adopted by GA resolution 43/173, 9 December 1998.

<sup>277</sup> N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date, Article 26; Government of Rwanda website, The Judiciary, [Government of Rwanda: Judiciary \(www.gov.rw\)](#), accessed 8 March 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>278</sup> Transfer Law N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date, Article 14.6.

<sup>279</sup> International Commission of Jurists, Monitoring report on Jean Claude I., November-December 2016, § 86.

<sup>280</sup> N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date, Article 21.

<sup>281</sup> Confidential source, March 2023.



#### 3.3.1.4 Jurisdiction

Suspects extradited under the Transfer Law also fall under a different jurisdiction from that of other genocide suspects. Genocide suspects extradited under the Transfer Law were – unlike other genocide suspects – tried by the specialised international chamber of the high court. The specialised international chamber of the high court has jurisdiction over transnational crimes such as terrorism, human trafficking, slavery, torture, crimes against humanity and war crimes. Genocide also falls within the jurisdiction of this court, with the important exception of acts of genocide and crimes against humanity committed in Rwanda between 1 October 1990 and 31 December 1994. For these latter genocide cases, the lower courts are normally the designated courts at first instance (see also 3.1.1.1).<sup>282</sup>

Persons who voluntarily returned or were deported to Rwanda (and therefore did not in principle fall under the Transfer Law) and who were arrested by the Rwandan authorities on suspicion of international crimes other than genocide were tried by the specialised international chamber<sup>283</sup> but were not eligible for detention in the international wing of Mageragere<sup>284</sup> or Nyanza<sup>285</sup> prison (see also 4.1.1.7).<sup>286</sup>

#### 3.3.1.5 Witness protection

The Transfer Law allows the court to provide protection to witnesses in Transfer Law cases.<sup>287</sup>

### 3.3.2 *Transfer Law and penalties*

The penalties from the Penal Code described in 3.8 apply in full to all suspects, including those extradited to Rwanda by means of the Transfer Law.<sup>288</sup> According to a confidential source, during the reporting period the Transfer Law did not lead to any difference in the penalties imposed compared to cases to which the Transfer Law did not apply.<sup>289</sup>

### 3.3.3 *The Transfer Law and deportations*

In principle, the Transfer Law does not apply to returnees (voluntary or forced) who have not been extradited to Rwanda. They receive the same treatment as persons who have never left Rwanda. If they are arrested on suspicion of genocide, their cases fall within the jurisdiction of the regular courts (not the specialised international chamber of the high court, see also 3.1.1.1). They are also not eligible for detention in the international wings.<sup>290</sup>

<sup>282</sup> N°30/2018 of 02/06/2018 Law determining the jurisdiction of courts, Articles 26, 29 and 42; Confidential source, February 2023.

<sup>283</sup> N°30/2018 of 02/06/2018 Law determining the jurisdiction of courts, Article 42.

<sup>284</sup> Mageragere is the most commonly used name for the prison in Kigali. It is also referred to as Nyarugenge.

<sup>285</sup> Nyanza Correctional Facility was also known as Mpanga. It is located in the city of Nyanza, where the Special International Chamber of the High Court has also been located since 2018.

<sup>286</sup> Confidential source, February 2023.

<sup>287</sup> Transfer Law: N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date, Article 15.

<sup>288</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>289</sup> Confidential source, February 2023.

<sup>290</sup> Confidential source, February 2023; Confidential source, February 2023.

An exception to this was the case of Léon Mugesera, for whom Canada stipulated when he was deported in 2012 that he should be tried under the Transfer Law. No information has been found to suggest that Canada appointed an independent observer.<sup>291</sup> Mugesera has been in the international wing of the prison in Nyanza since 2016, around the time of his conviction.<sup>292</sup> He did not receive legal assistance subsidised by the Rwandan authorities because the judge ruled that he had sufficient means of his own.<sup>293</sup> He later claimed a subsidy for an extra lawyer. However, he refused to complete the relevant form for this.<sup>294</sup>

The Rwandan authorities have shown their willingness to continue in future to apply the Transfer Law to persons who are deported, in other words without any extradition request.<sup>295</sup> It was not possible to determine whether the stipulation by the deporting country that the Transfer Law should be applied would lead the Rwandan authorities to initiate criminal proceedings in such cases.

### 3.4 Developments in the judicial process

#### 3.4.1 Trends in the judicial process

According to a confidential source, the Rwandan authorities' desire to try genocide suspects themselves had over the years had a positive influence on the degree to which the judicial process in Rwanda met international standards. For example, the death penalty was abolished in general in 2007, and the ICTR's quality requirements had led the Rwanda Bar Association (RBA) to do everything possible to have lawyers available who were able to handle genocide cases properly. However, conditions for suspects tried under the Transfer Law were not the same as for those without the guarantees provided by that law (see also 3.3 and 3.5).<sup>296</sup>

##### 3.4.1.1 Backlogs in the administration of justice

In recent years, the judiciary has been faced with an increasing backlog in the handling of cases. The court of appeal, which was established in April 2018 to relieve the supreme court (see also 3.1.1), was responsible for the largest backlogs: in May 2022, 1,306 cases were pending. Although the justice sector has been trying to reduce backlogs for several years through the continuing digitisation of judicial processes, capacity-building in the justice system and the application of local mediation techniques (*abunzi*) where possible, the trend has been reversed in recent years and backlogs have increased further. Although the maximum pre-trial detention period under Rwandan law was one year, there were numerous instances in which a court had not heard a case after three or four years. The Rwandan justice system, which was contending with limited manpower and resources, was unable to cope with the ever-increasing demand.<sup>297</sup>

<sup>291</sup> African Court on Human and People's Rights, *Judgment in the matter of Léon Mugesera vs the State of Rwanda, Application no 012/2017*, 27 November 2020, paragraphs 54-56.

<sup>292</sup> IRMCT, *Request for revocation of order referring the Jean Uwinkindi case, transferred to Rwanda by the ICTR in 2012*, [MSC9306R0000513009.pdf \(irmct.org\)](#), paragraphs 33, 35, 37 and 41. It is clear from this that Mugesera was staying in the Delta Wing of Nyanza Prison.

<sup>293</sup> African Court on Human and People's Rights, *Judgment in the matter of Léon Mugesera vs the State of Rwanda, Application no 012/2017*, 27 November 2020, paragraphs 48, 52, 53, 54, 55, 59.

<sup>294</sup> Judgment [ECLI:NL:GHDHA:2016:1924, The Hague Court of Appeal, 200.182.281-01 \(rechtspraak.nl\)](#), accessed 30 May 2023.

<sup>295</sup> Confidential source, February 2023.

<sup>296</sup> Confidential source, February 2023.

<sup>297</sup> Confidential source, December 2022.

#### 3.4.1.2 Independence of the judiciary

Since 2003, Rwanda's constitution has provided for a separation of powers and an independent judiciary. The High Council of the Judiciary is chaired by the president of the supreme court.<sup>298</sup> The legislative texts met the conditions for due process<sup>299</sup>, but according to various sources, this was not always reflected in practice during the reporting period.<sup>300</sup>

The quality of the judges varied. The higher the court, the more experience the judges generally had. Some were independent, while others were open to bribes or easily influenced. At the same time, much was determined by case law, giving judges less room for manoeuvre.<sup>301</sup> With the exceptions mentioned below, in most cases the judiciary operated without interference from the authorities, and the authorities generally respected the courts' decisions.<sup>302</sup>

#### 3.4.1.3 Political influence on the judiciary

According to observers, the influence of politicians and the security apparatus on the judiciary was strong when the authorities wanted it to be – generally for reasons of national security, self-preservation of the regime and in some instances the personal interests of powerful people.<sup>303</sup> According to observers quoted in the annual human rights report of the United States, judgments in politically sensitive and high-profile genocide cases in particular appeared predetermined. According to the same report, courts allowed confessions that had allegedly been obtained through torture and failed to investigate allegations of torture and ill-treatment (see also 4.2.3).<sup>304</sup>

Rwandan law recognises the principle of the presumption of innocence, but in the case of Rusesabagina (see also 2.1), President Kagame publicly stated that he was guilty before the court had passed judgment. According to the American Bar Association (ABA), this had an adverse effect on his case. In February 2021, the Rwandan Minister of Justice acknowledged that the prison authorities had repeatedly intercepted and read documents from Rusesabagina's lawyers before passing them on to him.<sup>305</sup>

As stated above, the possibility could not be ruled out that judges were influenced by political pressure or corruption.<sup>306</sup> According to a confidential source, self-censorship was also sometimes practised in order to please the president.<sup>307</sup>

<sup>298</sup> *Constitution of Rwanda of 2003 with amendments through 2015; Constitution de la République rwandaise, 1991*; Confidential source, February 2023.

<sup>299</sup> Elements of a fair trial include: a formal charge, independent [judges](#), trial within a reasonable time, [legal assistance](#), the opportunity and time to prepare a defence, the possibility of hearing witnesses, no forced confessions, trial according to laws valid at the time of the alleged offence, no second conviction for the same offence (ne bis in idem), and the possibility of appeal and [pardon](#). Source: Amnesty International encyclopedie, [Eerlijk proces - gerechtigheid - advocaten - Amnesty International](#), accessed 6 April 2023.

<sup>300</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 10; Confidential source, February 2023.

<sup>301</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>302</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 10; Confidential source, February 2023.

<sup>303</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 10; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>304</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 4, 9, 10.

<sup>305</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 10-11; American Bar Association, *The Case of Paul Rusesabagina*, June 2021, pp 2, 3, 5; Confidential source, February 2023.

<sup>306</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>307</sup> Confidential source, February 2023.

The verdict in the case of the journalist Ntwali's death (see also 2.6.1) suggested political influence, because of its speed, because the trial took place behind closed doors and because the defendant was given a light sentence, especially given that proceedings usually took a long time due to the backlog in the administration of justice, and the sentences imposed in Rwanda tended to be on the tough side.<sup>308</sup>

According to a confidential source, political pressure could also be exerted through the public prosecutor and the clerk of court. For example, critics of the authorities who had attracted a lot of public or international attention might spend a long time in pre-trial detention, even if they were eventually acquitted by the judge.<sup>309</sup>

It was not uncommon for individuals who appeared to have been arrested for political reasons to be acquitted. In such cases, there were often long periods of pre-trial detention. This happened, for example, in the case of Diane Rwigara, the female presidential candidate of 2017. She, her mother and four others were acquitted in December 2018 and released after spending a year and three months in pre-trial detention.<sup>310</sup> Journalist and opposition politician Christopher Kayumba was acquitted of rape and attempted rape in February 2023 after a year and a half in pre-trial detention.<sup>311</sup> For these cases, see also 2.7.1.1.

Three journalists from the YouTube channel Iwacu TV (see also 2.7.1.2) were acquitted and released in October 2022 after four years and three months in detention.<sup>312</sup> On 27 March 2017, Violette Uwamahoro, the wife of an opposition politician residing in the UK, was released on bail due to insufficient evidence. She had been arrested on 14 February of that year and spent 17 days incommunicado in detention while pregnant (see also 2.5 and 2.8.3).<sup>313</sup>

In January 2020, three members of FDU-Inkingi were acquitted of forming and/or participating in an armed movement. One of those acquitted, Théophile Ntirutwa, was re-arrested a few months later and charged with murder, theft and spreading false information. In December 2022, after more than two and a half years of pre-trial detention, he was acquitted of murder and theft but sentenced to seven years in prison for spreading false information. Three co-defendants were acquitted and released.<sup>314</sup>

The YouTuber Niyonsenga, also known as Cyuma Hassan, was initially acquitted of forgery, assuming a different identity and obstructing public works (see also 2.2.6). He had been in pre-trial detention for eleven months by then. He was then found guilty on appeal, among other things of humiliating the national authorities and public officials, a charge for which no legal basis had existed since 2019. This had to

<sup>308</sup> The Guardian, *Rwandan court fines speeding driver \$920 over death of campaigning journalist*, 7 February 2023, Confidential source, February 2023; Confidential source, February 2023.

<sup>309</sup> Confidential source, March 2023.

<sup>310</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, pp 491-492; TV5 Monde, *Rwanda: l'acquittement surprise de l'opposante Diane Rwigara*, 6 December 2018; Confidential source, February 2023.

<sup>311</sup> Human Rights Watch, *2023 World Report. Events of 2022, 2022*, pp 513-514; KT Press, *Former university don Kayumba acquitted*, 22 February 2023; Africa News, *Opposition figure Christopher Kayumba held for rape in Rwanda*, 10 September 2021.

<sup>312</sup> CPJ, *Rwandan court acquits, releases 3 Iwacu TV journalists*, 5 October 2022; Human Rights Watch, *2023 World Report. Events of 2022, 2022*, pp 514-515.

<sup>313</sup> BBC News, *Violette Uwamahoro: Rwanda court releases UK woman*, 27 March 2017; Amnesty International, *2017 Annual report*, 2018, p 316.

<sup>314</sup> Human Rights Watch, *2021 World report, Events of 2020, 2021*, pp 573-575; Human Rights Watch, *Rwanda: Politician Convicted for Harming Rwanda's Image*, 18 January 2023.

be corrected by means of a second appeal.<sup>315</sup> According to a confidential source, this turn of events showed that both the prosecutor and the judge in this case had been overzealous in their efforts to please the authorities.<sup>316</sup>

### 3.4.2 *Legal assistance*

The law gave the right to legal assistance, but in practice there was a shortage of lawyers and their services were too expensive for many Rwandans.<sup>317</sup> The law provided for access to pro bono legal assistance for those who lacked sufficient means. A decision on this was taken at district level. When someone was arrested, it was determined whether he or she could afford a lawyer or not. Children up to the age of eighteen always received legal assistance or a lawyer paid by the government. If someone did not have sufficient means, according to a confidential source, there were several options:

- State-run Access to Justice Bureaus (*Maison d'Accès à la Justice*, MAJ) at district level. Their personnel are not lawyers and do not practise criminal law;
- The pro bono programme of the Rwanda Bar Association (RBA);
- Subsidised legal assistance from bodies such as the Legal Aid Forum (LAF), an umbrella organisation of 38 organisations that provide legal assistance. The Dutch government was a major provider of funding for these services, but this funding will cease at the end of 2023;
- Small advocacy groups for issues such as gender-based violence or LGBTQI+.<sup>318</sup>

In practice, lawyers did little pro bono work.<sup>319</sup>

The possibility of legal assistance from a foreign lawyer was not excluded, but a confidential source stated that it depended on whether there was a reciprocal agreement between the RBA and the country of the lawyer concerned.<sup>320</sup> According to another confidential source, it was possible if the foreign lawyer registered with the Rwanda Bar Association.<sup>321</sup> One source stated that this rarely occurred in practice.<sup>322</sup>

For legal assistance in cases under the Transfer Law, see 3.5.2.

### 3.4.3 *Pressure on lawyers*

A confidential source provided the following context for the position of lawyers in Rwanda. The legal profession was still relatively new in Rwanda. This profession did not exist until 1997; previously, suspects were assigned a representative by the

<sup>315</sup> Committee to Protect Journalists, *Rwandan journalist Dieudonné Niyonsenga acquitted, released after 11 months in prison*, 15 March 2021; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Human Rights Watch, *2021 World report. Events of 2020, 2021*, pp 575-576; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Confidential source, February 2023.

<sup>316</sup> Confidential source, February 2023.

<sup>317</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 10; Confidential source, February 2023.

<sup>318</sup> Confidential source, February 2023; Confidential source, April 2023.

<sup>319</sup> Confidential source, December 2022.

<sup>320</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>321</sup> Confidential source, April 2023.

<sup>322</sup> Confidential source, February 2023.

state who did not necessarily have to have any technical knowledge of the law. After the genocide, society's perceptions made it virtually impossible for Rwandan lawyers (who had been trained and gained experience abroad, for example) to defend genocide suspects. They therefore confined themselves to representing victims and left the defence of perpetrators to foreign lawyers. However, their services were very expensive, which made it necessary for Rwandan lawyers to do this work too.<sup>323</sup>

During the reporting period it was still not easy for lawyers to defend genocide suspects, but society had gained a better understanding of the lawyer's role.<sup>324</sup> There were only a few lawyers who handled genocide cases and they were among the most expensive.<sup>325</sup> Some lawyers were reluctant to take on cases that were politically sensitive or that touched on state security, because they feared being harassed by the authorities.<sup>326</sup> On the other hand, according to a confidential source, it was also possible that some lawyers had some form of protection – for example because they had the right connections – or that in some cases they yielded to pressure to some extent, for example by convincing the suspect to plead guilty in exchange for a greatly reduced penalty.<sup>327</sup>

In 2018, two lawyers temporarily disappeared. Jean-Claude Muhikira went missing on 20 March of that year. According to a confidential source, he was released after a month of incommunicado detention on condition that he made no statements about his detention.<sup>328</sup> At about the same time, the lawyer Donat Mutunzi, who was known for operating independently, was found dead in his cell under suspicious circumstances after ten days of incommunicado detention (see also 2.6 and 4.2.1). The authorities claimed that he had committed suicide. According to confidential information, he was accused of rape, but he was not brought before a court.<sup>329</sup>

#### 3.4.4 *Influencing of witnesses*

There were some reports of accusations of witness tampering during the reporting period. Pressure could be exerted by the authorities, by the suspects or by the community.<sup>330</sup> Whether defence witnesses were free to testify varied from trial to trial, according to confidential sources.<sup>331</sup>

<sup>323</sup> Confidential source, February 2023.

<sup>324</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>325</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>326</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 10, 12.

<sup>327</sup> Confidential source, February 2023.

<sup>328</sup> RFI, *Rwanda : deux avocats disparaissent en l'espace de deux mois*, 25 April 2018; Observatoire des Droits de l'Homme au Rwanda, *Alerte sur la disparition de deux avocats rwandais*, 21 April 2018, [ODHR : ALERTE SUR LA DISPARITION DE DEUX AVOCATS RWANDAIS - \(over-blog.com\)](#), accessed 19 April 2018; Confidential source, March 2023.

<sup>329</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 494; Human Rights Watch, *2020 World report*, 2021; Amnesty International, *2021 Annual report*, 2022, p 316; Musabyimana, *Rwanda: exécutions extrajudiciaires très significatives*, 24 April 2018, [Rwanda : Exécutions extrajudiciaires très significatives | Actualité/informations et documentation socio-politiques sur le Rwanda | musabyimana.net](#), accessed 19 March 2023; RFI, *Rwanda: deux avocats disparaissent en l'espace de deux mois*, 25 April 2018; Confidential source, June 2018.

<sup>330</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 494; Human Rights Watch, *2021 World report. Events of 2020, 2021*, p 573; UNIRMCT website, *Ngirabatware, Augustin (MICT-19-121)*, [NGIRABATWARE, Augustin \(MICT-19-121\) | UNITED NATIONS | International Residual Mechanism for Criminal Tribunals \(irmct.org\)](#), accessed 8 March 2023; Confidential source, March 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>331</sup> Confidential source, March 2023; Confidential source, February 2023.

In the appeal against two former military officers of the Rwanda Defence Force (RDF), Colonel Tom Byabagamba and Brigadier General Frank Rusagara, the defendants complained of witness tampering. The court of appeal did not investigate these allegations and upheld the conviction.<sup>332</sup>

Suspects also sometimes tried to influence witnesses. In the Ngirabatware case, five individuals were charged by the IRMCT prosecutor in 2018 with contempt of court and perverting the course of justice for offering bribes and attempting to influence witnesses.<sup>333</sup>

According to various confidential sources, it sometimes happened that someone who was seen by the authorities as a threat to security and stability was associated by others – whether under instructions or not – with politically sensitive issues or accused of criminal behaviour.<sup>334</sup>

For information about witnesses in Transfer Law cases, see 3.5.3.

### **3.5 The judicial process and the Transfer Law**

For detention conditions under the Transfer Law, see 4.1.1.7.

#### *3.5.1 Independent monitoring of Transfer Law cases*

An independent observer was not appointed for all trials of individuals who had been extradited. This was a matter of choice for the extraditing country.<sup>335</sup> As far as could be ascertained, only the ICTR, the Netherlands and Germany had opted to do so.<sup>336</sup> The reports of the independent observer of the trials of the suspects extradited by the Netherlands provided factual information on the following points:

- A public trial with a competent, independent and impartial judge without political interference;
- The presumption of innocence;
- The right to be informed of the charges in a timely manner and in a known language;
- The right to have enough time to prepare for the trial;
- The right to defence by a lawyer of one's choice;
- The right for the accused to be present at the trial;
- The right not to testify against oneself;
- The right not to speak at trial;
- The right to cross-examine the witnesses for the prosecution;
- The right to equal treatment of defence witnesses and prosecution witnesses.<sup>337</sup>

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<sup>332</sup> Human Rights Watch, *2021 World report. Events of 2020, 2021*, p 573.

<sup>333</sup> UNIRMCT website, *Ngirabatware, Augustin (MICT-19-121)*, [NGIRABATWARE, Augustin \(MICT-19-121\) | UNITED NATIONS | International Residual Mechanism for Criminal Tribunals \(irmct.org\)](https://www.irmct.org/), accessed 8 March 2023; Human Rights Watch, *2019 World report. Events of 2018, 2019*, p 494.

<sup>334</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>335</sup> Confidential source, March 2023; Confidential source, March 2023; Confidential source, March 2023.

<sup>336</sup> Dutch Ministry of Justice and Security, Monitoring Rwandese uitleveringszaken, [Monitoring Rwandese uitleveringszaken | Internationale vrede en veiligheid | Rijksoverheid.nl](https://www.rijksoverheid.nl/onderwerpen/monitoring-rwandese-uitleveringszaken), accessed 16 April 2023; Confidential source, March 2023; Confidential source, March 2023; Confidential source, March 2023; Confidential source, April 2023; Confidential source, April 2023.

<sup>337</sup> International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, p 3

In the cases for which an observer was appointed, he/she had good access to the suspects, to the international wings of the prisons, to courtrooms and judges, and to government bodies.<sup>338</sup>

### 3.5.2 *Legal assistance (subsidised or otherwise) in Transfer Law cases*

The Transfer Law gave the right to be represented by a lawyer of one's choice. If the suspect could not afford to pay for legal assistance, the Transfer Law guaranteed legal assistance paid for by the authorities.<sup>339</sup> The authorities put this legal assistance out to tender (with a ceiling of around fifteen million Rwandan francs (RwF)).<sup>340</sup> Defendants could choose from a list of lawyers who had won the tender. The choice of a subsidised lawyer was therefore not completely free, because there were financial limits and the best lawyers were the most expensive.<sup>341</sup> In the cases of the defendants who had been extradited by the Netherlands, the lawyers complained that the allocated fee was insufficient, especially after the specialised international chamber of the high court had moved to Nyanza in 2018 (a two-and-a-half hour journey from Kigali).<sup>342</sup> On the instructions of the court, the fee for the lawyers of both defendants was eventually increased by three million RwF to a total of eighteen million RwF.<sup>343</sup>

The suspects extradited to Rwanda by the Netherlands under the Transfer Law were assigned a lawyer by the RBA after they had indicated to the independent observer that they had insufficient means of their own.<sup>344</sup> In one case, the defendant was not satisfied with his lawyer because he advised him to plead guilty; he was subsequently assigned another lawyer.<sup>345</sup> In two cases there were complaints about arrears in the payment of the lawyers, but this was rectified after the matter had been reported.<sup>346</sup>

### 3.5.3 *Witnesses in Transfer Law cases*

#### 3.5.3.1 Witness protection

<sup>338</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, June 2022; International Commission of Jurists, *Monitoring report on extradition of Venant R., July and August 2021*, 2021; Confidential source, March 2023; Confidential source, March 2023.

<sup>339</sup> Transfer Law N° 09/2013/OL of 16/06/2013 *Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date*, Article 14.6.

<sup>340</sup> About 12,500 euros. Sources: International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, June 2022; Confidential source, February 2023.

<sup>341</sup> Confidential source, February 2023; Confidential source, April 2023.

<sup>342</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., July-September 2018*, §71; *Monitoring report on Jean-Baptiste M., December 2018-January 2019*, §22, 32; *Monitoring report on Jean Baptiste M. December 2019-February 2020*, §20; *Monitoring report on Jean Baptiste M. June-September 2020*, §71, 85; *Monitoring report on Jean Claude I., July-September 2018*, §37; *Monitoring report on Jean Claude I., April-May 2019*, §21, 32.

<sup>343</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M. December 2019-February 2020*, §21; *Monitoring report on Jean Claude I., December 2019-February 2020*, §8.

<sup>344</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, pp 7-8; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, June 2022, p 10; International Commission of Jurists, *Monitoring report on extradition of Venant R. July and August 2021*, undated, p 4; Confidential source, February 2023; Confidential source, March 2023; Confidential source, April 2023.

<sup>345</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, pp 7-8.

<sup>346</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, pp 7-8; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, June 2022, p 10.



The public prosecutor had witness protection programmes. These programmes were open to both prosecution and defence witnesses.<sup>347</sup> The options included making the witness unrecognisable, for example by having him/her testify under a pseudonym, placing him/her in another room, and/or using voice distortion technology. In addition, there were programmes for trauma treatment for witnesses and for working with local authorities to protect witnesses at home.<sup>348</sup> According to a confidential source, not all witnesses had confidence in such programmes, especially if they were less highly educated.<sup>349</sup>

In the cases observed by the independent observer, the list of witnesses was only accessible to the parties to the proceedings and was not published. The observer was unable to see the list. Witnesses in Transfer Law cases received protection if they requested it. This was true of both defence and prosecution witnesses. Witness protection consisted of testifying under a pseudonym, from another room and with a distorted voice.<sup>350</sup>

In the cases of the suspects extradited by the Netherlands, both prosecution and defence witnesses who requested protection were granted it. Discussions about the need for protection took place in court on a number of occasions. In the cases of two of the defendants extradited by the Netherlands, the defendant or the lawyer complained about the anonymisation of prosecution witnesses, arguing that the witnesses could use this protection to give false testimony.<sup>351</sup> The judge determined on a case-by-case basis whether protective measures were necessary for the witnesses.<sup>352</sup>

In another case, the court ruled that a witness should not receive the protection he had requested. It was not clear from the report on what grounds the protection had been requested or on what grounds it had been refused.<sup>353</sup>

In the cases of the suspects extradited by the Netherlands, witnesses who had previously stated that they wanted protection sometimes waived this during the trial. It was not always possible to determine the reason for this. In one of the cases, two of these (prosecution) witnesses subsequently changed their statement and stated that they had signed their earlier statement under pressure.<sup>354</sup> One of these witnesses stated that he had been so badly beaten that pus came out of his ears, and that he was later transferred to a prison where he had no room to sleep.<sup>355</sup> Conversely, the public prosecutor asserted that the witness had in fact stated that he had been bribed by the suspect.<sup>356</sup> It was not possible to determine which of these two statements was correct.

<sup>347</sup> This is apparent from the following sources: International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, p 14; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, p 9

<sup>348</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, p 14; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>349</sup> Confidential source, February 2023.

<sup>350</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, p 14; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, p 9; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, March 2023.

<sup>351</sup> International Commission of Jurists, *Monitoring report on Jean Claude I., December 2017-February 2018*, § 35; International Commission of Jurists, *Monitoring report on Jean Baptiste M., July-September 2018*, § 68.

<sup>352</sup> International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, p 9.

<sup>353</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., June-July 2019*, § 57-58.

<sup>354</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., December 2018-January 2019*, § 65-69; International Commission of Jurists, *Monitoring report on Jean Baptiste M., April-May 2019*, § 9,23-25, 40.

<sup>355</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., April-May 2019*, § 9,23-25, 40.

<sup>356</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., April-May 2019*, § 81-86.

### 3.5.3.2 Witnesses from abroad

It was possible for witnesses to be heard while abroad/from abroad. This might be for practical reasons, or for their protection. In the case of a suspect extradited by the Netherlands, a foreign lawyer was engaged to prepare the witnesses who would testify from abroad.<sup>357</sup>

### 3.5.4 *Due process in Transfer Law cases*

As far as is known, no independent analysis has been conducted of the reports by the independent observer of the court cases of the suspects extradited by the Netherlands in order to reach a conclusion on whether there was due process. For information on the progress of the cases, please refer to the reports published on the Dutch government portal. In this country report, anecdotal information is cited occasionally and in a non-exhaustive manner from the observation reports, particularly with regard to witness protection and detention conditions.<sup>358</sup>

An independent observer was not appointed by the extraditing country in all Transfer Law cases. It is unclear whether the cases of the suspects extradited by the Netherlands are representative of all Transfer Law cases.

In the case of one suspect extradited by the Netherlands, his lawyer kept urging him to plead guilty. After he complained about this, the suspect was assigned another lawyer.<sup>359</sup> In addition, two of the suspects extradited by the Netherlands said that they were convinced that their communications, including those with their lawyers, were being tapped by the prison authorities. According to the suspects, this happened both during face-to-face meetings with their lawyers and through spyware or their computers (see also 4.1.1.7).<sup>360</sup> One of the suspects complained that he was not given a separate room for meetings with his lawyer and that he had to have these meetings during visiting hours in the same room as other prisoners.<sup>361</sup> It was not possible to confirm whether the complaints about spyware were justified. The court ordered the public prosecutor to take this complaint seriously, but the independent observer's reports do not indicate that an independent investigation into this complaint was carried out. The suspects were given a new laptop, but this did not allay their concerns.<sup>362</sup>

### 3.5.5 *Backlogs in the administration of justice and Transfer Law cases*

The backlogs in the administration of justice also affected the appeals in Transfer Law cases. The president of the RBA promised the independent observer of the

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<sup>357</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, pp 11, 14; International Commission of Jurists, *Monitoring report Jean Claude I. July, August, September 2020*, 30 September 2020, p 5; Confidential source, February 2023; Confidential source, February 2023.

<sup>358</sup> [Monitoring Rwandese uitleveringszaken | Internationale vrede en veiligheid | Rijksoverheid.nl](#)

<sup>359</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, 1 August 2021, pp 7-8.

<sup>360</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, August 2021, pp 17-18; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, p 12.

<sup>361</sup> International Commission of Jurists, *Final monitoring report Jean Claude I., July-September 2018*, §20, 34.

<sup>362</sup> International Commission of Jurists, *Monitoring report on Jean Claude I., November-December 2016*, §79; *Monitoring report on Jean Claude I., February-April 2019*, §29, 35, 40; *Monitoring report on Jean Claude I., October-December 2020*, §63, 67, 94; *Monitoring report on Jean Baptiste M., February-April 2019*, §14, 19; *Monitoring report on Jean Baptiste M., January-February 2021*, §49.

cases of the individuals extradited by the Netherlands that he would express his concerns to the president of the court of appeal.<sup>363</sup>

### 3.6 Treatment of returnees

#### 3.6.1 Voluntary return

It has not been possible to determine how many people voluntarily returned to Rwanda, or how these people were generally treated on their return.<sup>364</sup> According to confidential sources, individuals who had expressed criticism of the Rwandan authorities in the past could only return after they had shown remorse, both publicly and to the authorities. They were subsequently monitored.<sup>365</sup>

#### 3.6.2 Deportations

From the US, Canada, Uganda, the Republic of Congo, the DRC, Germany and the Netherlands, a total<sup>366</sup> of about seventeen individuals suspected of genocide were deported to Rwanda.<sup>367</sup> During the reporting period, in figures rounded to the nearest ten, the Netherlands deported ten people to Rwanda; none of them had a 1F classification.<sup>368</sup> Norway also deported an individual who was not a genocide suspect, but who on his return was prosecuted for genocide ideology (see below under *Norway*).

There was no systematic monitoring of the treatment by the Rwandan authorities of individuals deported to Rwanda.<sup>369</sup> According to two confidential sources, if a person perceived as a threat was forced to return – for example through deportation – there was a high chance that he or she would spend an initial period in incommunicado detention, with a risk of ill-treatment. The sources did not back this up with concrete examples and there are no known cases of this actually happening to deported returnees.<sup>370</sup>

##### 3.6.2.1 Canada

In 2012, Léon Mugesera was deported from Canada. According to the Rwandan authorities, Canada had made it a condition that the Transfer Law would be applied to this deportation (see also 3.3.3).<sup>371</sup>

In 2016, Canada deported former FAR officer Henri Jean Claude Seyoboka to Rwanda. The Rwandan authorities had issued an international warrant for his arrest on charges of participation in the 1994 genocide. According to press reports, the

<sup>363</sup> International Commission of Jurists, *Monitoring report on Venant R., September–November 2022*, § 151-154.

<sup>364</sup> Confidential source, February 2023.

<sup>365</sup> Confidential source, February 2023; Confidential source, March 2023.

<sup>366</sup> This number includes six deportations prior to the reporting period.

<sup>367</sup> Rwanda National Public Prosecution Authority, *Genocide Fugitives Tracking Unit (GFTU) and so far work done*, April 2018, [index.php\(nppa.gov.rw\)](https://index.php(nppa.gov.rw)), accessed 16 April 2023; Confidential source, February 2023.

<sup>368</sup> Confidential source, April 2023.

<sup>369</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>370</sup> Confidential source, February 2023; Confidential source, March 2023.

<sup>371</sup> African Court on Human and People's Rights, *Judgment in the matter of Léon Mugesera vs the State of Rwanda, Application no 012/2017*, 27 November 2020. Reference is made in § 53 to a *Letter of Assurance on Human Rights requested by the Government of Canada in the case of MUGESERA Leon*, dated 27 March 2009; Rwanda National Public Prosecution Authority, *Genocide Fugitives Tracking Unit (GFTU) and so far work done*, April 2018, [index.php\(nppa.gov.rw\)](https://index.php(nppa.gov.rw)), accessed 16 April 2023, p 4.

Canadian authorities had asked for guarantees that Seyoboka would be treated well.<sup>372</sup> According to a press report, Seyoboka stated during his trial that he could not afford his defence and had therefore been assigned a pro bono lawyer. According to the same report, the Rwandan authorities had stated that Seyoboka was not entitled to legal assistance funded by the authorities.<sup>373</sup> Seyoboka was tried by the military court and sentenced to life imprisonment. He submitted an appeal against this in 2021.<sup>374</sup>

#### 3.6.2.2 Germany

In October 2022, Germany deported an individual to Rwanda. He was not a genocide suspect, but someone who had already been tried in Germany for running the armed group FDLR from Germany. He had served an eight-year sentence for this. The German authorities requested and obtained a guarantee from the Rwandan authorities that he would not be tried again for the same offence. According to a confidential source, he has been in a rehabilitation camp for former combatants since his return to Rwanda.<sup>375</sup>

#### 3.6.2.3 Norway

In 2016, Joseph Nkusi was deported from Norway, the country where he had lived since 2009. Nkusi was also not a genocide suspect, but during his stay in Norway he had published blogs that were critical of the Rwandan authorities and claimed that there had been a double genocide in Rwanda. On his return, Nkusi was immediately arrested and prosecuted for conspiracy, genocide ideology and sedition. In March 2018, he was given a ten-year prison sentence.<sup>376</sup> According to an article in the Rwandan press, Nkusi was brought before the high court, which referred the case to the specialised international chamber.<sup>377</sup>

#### 3.6.2.4 United States

The United States did not request any guarantees as conditions for deportations to Rwanda. There was no monitoring of the treatment of these individuals on their return, but according to a confidential source there had been no sign that they had been subjected to ill-treatment.<sup>378</sup>

In 2021, Beatrice Munyenyezi was deported from the US after serving a prison sentence for lying in connection with her naturalisation application. On her arrival in Rwanda, she was arrested for genocide-related crimes.<sup>379</sup>

<sup>372</sup> Rwanda National Police, *Canada departs second Genocide suspect*, 18 November 2016; Jeune Afrique, *Génocide rwandais : le Canada extradite un ex-officier de l'armée vers Kigali*, 18 November 2016; BBC News Afrique, *Un ex-officier rwandais extradé du Canada*, 18 November 2016.

<sup>373</sup> KT Press, *Genocide suspect Seyoboka wants government paid lawyer*, 6 January 2017. According to this article, Seyoboka was not entitled to a lawyer financed by the Rwandan authorities because he had been extradited. This is incorrect. According to confidential and public sources (see previous footnote), Seyoboka was not extradited but deported. In his case (unlike Léon Mugesera's), it is not clear that Canada had made it a condition that he should be tried under the Transfer Law. If not, it would make more sense that he was not entitled to legal aid financed by the authorities, as this is only guaranteed under the Transfer Law, provided that the person concerned does not have sufficient means of his or her own. This does not detract from the factual information that Seyoboka wanted to claim subsidised legal assistance and did not receive it.

<sup>374</sup> The New Times, *Military court to start hearing witnesses in Seyoboka Genocide case*, 9 February 2018; The New Times, *Genocide convict Seyoboka appeals against life sentence at Military High Court*, 31 May 2021.

<sup>375</sup> Confidential source, March 2023; Confidential source, March 2023.

<sup>376</sup> Newstex Blogs, *How does Rwanda's genocide ideology law regulate speech online?* 20 July 2020, The Rwanda, *Dr Joseph Nkusi deported from Norway in 2016, sentenced to 10 years of prison*, 29 March 2018.

<sup>377</sup> The Rwandan, *Norway's puzzling relationship with Rwanda*, 30 October 2017.

<sup>378</sup> Confidential source, February 2023.

<sup>379</sup> Human Rights Watch, *World report 2022. Events of 2021*, 2021, p 567.

### 3.6.3 Extraditions

The Rwandan authorities worked actively on concluding extradition treaties with third countries during the reporting period.<sup>380</sup> According to an article in the Rwandan press in 2019, the Rwandan authorities had already issued more than a thousand extradition requests at that time.<sup>381</sup>

Eight cases were transferred from the ICTR to Rwanda. In addition, according to a confidential source, individuals were extradited to Rwanda by various countries. The Netherlands, Sweden, Norway, Denmark and Germany extradited a total of nine people.<sup>382</sup> Countries such as Belgium, France and the United Kingdom did not extradite to Rwanda; during the reporting period, they tried genocide suspects exclusively themselves. The Belgian federal prosecutor's office had some forty genocide cases from Rwanda awaiting trial.<sup>383</sup>

In the case of extradition, the extraditing country could appoint an independent observer for the court proceedings under the Transfer Law (see also 3.3.1 and 3.5.1).<sup>384</sup>

The Netherlands extradited three genocide suspects to Rwanda. Under the Transfer Law, the Netherlands stipulated that the court proceedings against these suspects in Rwanda should be monitored by an independent observer. The role of independent observer was taken on by the Kenyan section of the International Commission of Jurists (ICJ). Reports on the observation of the three court cases can be found on the website of the Dutch government.<sup>385</sup> The individuals extradited by the Netherlands were assigned a lawyer and held in the international wings of the two prisons designated for this purpose.<sup>386</sup>

Sweden extradited one person to Rwanda in 2022. He had been arrested under an international warrant. Because the person concerned did not agree to his extradition, the public prosecutor brought the case before the Swedish supreme court, which found that there were no obstacles to the extradition.<sup>387</sup> Sweden did not request additional guarantees from Rwanda, and did not appoint an independent observer.<sup>388</sup>

Sweden also extradited a suspect in 2011. The European Court of Human Rights (ECtHR) ruled on that occasion that the deportation did not violate the human rights

<sup>380</sup> Human Rights Watch, *2020 World report. Events of 2019*, 2019; Human Rights Watch, *2022 World report. Events of 2021*, 2021.

<sup>381</sup> The New Times, *Rwanda seeks extradition of over 1000 Genocide suspects*, 31 July 2019.

<sup>382</sup> Confidential source, February 2023.

<sup>383</sup> Human Rights Watch, *2020 World report. Events of 2019, 2020*; Confidential source, February 2023; Confidential source, February 2023.

<sup>384</sup> *Transfer Law: N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date*, Article 21.

<sup>385</sup> [Monitoring Rwandese uitleveringszaken | Internationale vrede en veiligheid | Rijksoverheid.nl](#)

<sup>386</sup> ICJ, *Final monitoring report Jean Claude I.*, August 2021, pp 6-7, 16-17; ICJ, *Final monitoring report Jean Baptiste M.*, June 2021, pp 8-9, 11; ICJ, *Monitoring report on Venant R.*, July and August 2021, pp 4-5.

<sup>387</sup> KT Press, *Sweden extradites genocide suspect to Rwanda*, 27 April 2022; Confidential source, March 2023.

<sup>388</sup> Confidential source, March 2023.

of the suspect. In 2013, this ruling was further confirmed by the rejection of complaints against extraditions by Denmark and Norway to Rwanda.<sup>389</sup>

Germany extradited one person in 2017. This individual's court case was monitored by the ICJ, like the cases of those extradited by the Netherlands. He was sentenced to 25 years at first instance in 2023 and appealed.<sup>390</sup>

In 2018, Denmark extradited one person to Rwanda.<sup>391</sup> According to a confidential source, the suspect was in prison in Nyanza. According to the same source, Denmark agreed with Rwanda that on completion of the trial in Rwanda, including the appeal phase, the person would serve his sentence in Denmark. Legal proceedings were still pending at the end of the reporting period.<sup>392</sup>

#### 3.6.4 Perception of treatment of extradited persons

According to confidential sources, extradited persons were regarded by society as receiving preferential treatment; as a result, it was felt that there was no equal treatment before the law.<sup>393</sup> At the same time, Rwandans considered it especially important that anyone guilty of genocide should be held accountable for their actions, whether this happened abroad or in Rwanda.<sup>394</sup> According to a confidential source, public opinion subsequently paid little attention to how such court cases actually proceeded.<sup>395</sup>

### 3.7 Possibilities for retrial and appeal

The gacaca (see also 1.5.3) were abolished in 2012. Since then, genocide perpetrators have only been tried in regular courts on the basis of the Penal Code.<sup>396</sup> Those who were sentenced in absentia by a gacaca court because they were out of the country are informed of the verdict on their return. They then have two months to apply for a retrial in a regular court. If they fail to do so, they must serve their sentence.<sup>397</sup>

In connection with this information, it should be borne in mind that the penalties imposed by gacaca for similar offences were lower than those laid down in the Penal Code up to the end of the reporting period. A retrial therefore entails a risk of a

<sup>389</sup> Netherlands Public Prosecution Service, [Rwandan Genocide suspects extradited to Rwanda | News item | Public Prosecution Service](#), 12 November 2016.

<sup>390</sup> AP, *Official: Rwanda genocide suspect extradited from Germany*, 18 August 2017; KT Press, *Genocide suspect Jean Twagiramungu sentenced to 25-year imprisonment*, 16 February 2023; Confidential source, March 2023; Confidential source, March 2023.

<sup>391</sup> The Local DK, *Danish Rwandan extradited to Kigali over genocide*, 12 December 2018; Confidential source, April 2023.

<sup>392</sup> Confidential source, April 2023.

<sup>393</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>394</sup> France24, *Three Rwanda genocide suspects arrested in Belgium*, 3 October 2020; Africa News, *Rwanda: des survivants saluent l'extradition d'un génocidaire présumé*, 27 July 2021; Le Canapé, *Génocide des Tutsi: Ibuka souhaite l'extradition de Kabuga*, 16 May 2020; Rwanda National Public Prosecution Authority, *Genocide Fugitives Tracking Unit (GFTU) and so far work done*, April 2018, p 1; Confidential source, February 2023.

<sup>395</sup> Confidential source, February 2023.

<sup>396</sup> Law N°04/2012/OL of 15/06/2012 terminating Gacaca courts and determining mechanisms for solving issues which were under their jurisdiction; Confidential source, February 2023.

<sup>397</sup> Law N°04/2012/OL of 15/06/2012 terminating Gacaca courts and determining mechanisms for solving issues which were under their jurisdiction, Articles 8-10; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

higher sentence.<sup>398</sup> In the event that individuals have fled their sentence, it is carried out without modification.<sup>399</sup>

Rwanda recognises the right to protection against double prosecution (double jeopardy, also known internationally as *ne bis in idem*).<sup>400</sup> In addition, individuals who fall within the scope of the Transfer Law and have been extradited by the ICTR or the IRMCT may only be tried on charges for which the ICTR or the IRMCT have given permission.<sup>401</sup>

In all three cases of the suspects extradited by the Netherlands under the Transfer Law, a previous gacaca conviction was overturned by the court before the suspects were retried.<sup>402</sup> In one of the cases of the suspects extradited by the Netherlands, the witness statements from the gacaca proceedings were subsequently used in the new trial<sup>403</sup>; in another case the witness statements from the gacaca case were explicitly excluded from use in the new trial<sup>404</sup>; and in the third case they were neither explicitly excluded nor used. In this last instance, the gacaca case involved a conviction for looting.<sup>405</sup>

Persons sentenced in absentia by a regular court could appeal.<sup>406</sup>

### 3.8 Penalties for genocide and similar crimes

Following the termination of the gacaca, the trying of genocide perpetrators was transferred to the regular courts (see also 3.7). The categorisation of acts of genocide that the gacaca had used thus lapsed. Genocide and other crimes committed during the genocide have come under the Penal Code since then.<sup>407</sup> The Penal Code generally prescribed harsher penalties than the gacaca law in the past.<sup>408</sup>

#### 3.8.1 Penalties for genocide

**Genocide** was punishable by **life imprisonment** without any possibility of a reduced sentence. The Penal Code defined genocide as an act with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such, whether in time of peace or in time of war, by 1) killing members of the group; 2) causing serious bodily or mental harm to members of the group; 3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction; 4) imposing measures intended to prevent births within the group; 5) forcibly

<sup>398</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>399</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>400</sup> Penal Code: *Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General*, Article 7

<sup>401</sup> Transfer Law: *N° 09/2013/OL of 16/06/2013 Organic Law repealing the Organic Law n° 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and from other states, as modified and complemented to date*, Article 5.

<sup>402</sup> International Commission of Jurists, *Monitoring report on Venant R., March-May 2022*, § 25-27; International Commission of Jurists, *Monitoring report on Jean Claude I., May-June 2017*, § 8-15; International Commission of Jurists, *Monitoring report on Jean Baptiste M., September 2017*, § 13-15

<sup>403</sup> International Commission of Jurists, *Monitoring report on Venant R., March-May 2022*, § 40.

<sup>404</sup> CASE RP 00001/2017/HC/HCCIC, Judgement Jean Claude I., § 11.

<sup>405</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., September 2017*, § 8.

<sup>406</sup> Confidential source, February 2023.

<sup>407</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>408</sup> Confidential source, February 2023; Confidential source, February 2023.

transferring children of the group to another group. Conspiring, inciting, planning, attempting and being complicit in genocide also carried a life sentence without the possibility of a reduced sentence.<sup>409</sup>

### 3.8.2 *Penalties for crimes against humanity*

The following **crimes against humanity** as defined in the Geneva Conventions and the three Additional Protocols carried a **life sentence**: murder; extermination; enslavement; torture; rape, sexual slavery, enforced prostitution, enforced sterilisation and any other form of sexual violence of comparable gravity; enforced disappearance; and other inhumane acts causing great suffering or serious injury to mental or physical health.<sup>410</sup>

The following **crimes against humanity** as defined in the Geneva Conventions and the three Additional Protocols carried a prison sentence of **20 to 25 years**: deportation; imprisonment or other severe deprivation of physical liberty against a person in violation of law; persecution on political, ethnic, religious grounds or any other form of discrimination; apartheid. These crimes when accompanied by degrading treatment carry a life sentence.<sup>411</sup>

### 3.8.3 *Penalties for war crimes*

The following **war crimes** as defined in the Geneva Conventions and Additional Protocols I and II carried a **life sentence**: wilful killing; torture and inhumane treatment, wilfully causing great suffering or serious injury to body or health; intentionally launching an attack against the civilian population or their property in the knowledge that such attack will cause incidental loss of life, injury to civilians or severe damage to civilian properties; attacking non-defended localities; and intentionally killing or injuring a person in the knowledge that he/she is not party to hostilities, or cannot defend himself/herself.<sup>412</sup>

The following **war crimes** as defined in the Geneva Conventions and Additional Protocols I and II carried a **prison sentence of ten to fifteen years**: wilfully depriving a prisoner of war of the right to fair trial; forced deportation, displacement of the civilian population or systematic detention in concentration or forced labour camps; taking of hostages and subjecting them to terrorist acts; using emblems of humanitarian organisations or other protective signs with the intention of killing, injuring or capturing the adversary; practices of apartheid and other inhuman and degrading practices based on racial discrimination.<sup>413</sup>

The following **war crimes** as defined in the Geneva Conventions and Additional Protocols I and II carried a **prison sentence of five to ten years**: extensive destruction and appropriation of property, not justified by military necessity, and buildings dedicated to religion, charity, education, history, works of art and science;

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<sup>409</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 91, 92 and 93.

<sup>410</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 94 and 95.

<sup>411</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 94 and 95.

<sup>412</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 96 and 98.

<sup>413</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 96 and 98.



compelling a prisoner of war to serve in the forces of a hostile power, in its intelligence or administrative services; transfer of the civilian population against its own interests; any unjustifiable delay in the repatriation of war prisoners or civilian internees, after the end of active hostilities; and passing of sentences and carrying out of executions without due process and without respecting the rights of the accused.<sup>414</sup>

#### 3.8.4 *Solitary confinement during a life sentence*

In 2017, solitary confinement as part of a life sentence was formally abolished under pressure from the international community. In 2010, the sentence of 'life imprisonment with special provisions for odious crimes' had replaced the death penalty, which had been abolished in 2007 to make extradition of genocide suspects by the ICTR possible. 'Odious crimes' meant: torture resulting in death, murder and manslaughter with degrading treatment of the dead body, genocide and other crimes against humanity, child sexual abuse, sexual torture and forming or leading a criminal gang. In addition to solitary confinement, the sentence also meant that in order to claim any form of pardon or parole, the convict must have served at least twenty years of the sentence.<sup>415</sup>

There were reports that even after the abolition of solitary confinement, people were detained in more or less isolated conditions. See also 4.1.1, 4.1.8 and 4.2.2.

#### 3.8.5 *Sentence reduction*

Under certain circumstances, the judge could reduce a sentence. This was the case if the accused pleaded guilty before the trial, expressed remorse to the victim and Rwandan society, and provided the expected compensation for the damage.

There was an exception in the law for acts of genocide.<sup>416</sup> Article 60 of the 2018 Penal Code stated that subject to the provisos of Article 107 of the same Code, the judge could reduce a life sentence to a term of imprisonment of no less than 25 years. However, no provisos were mentioned in Article 107. The Penal Code was amended in 2019, and Article 60 has referred to the provisos in Article 92 since then. Article 92 states that acts of genocide as defined in Article 91 are punishable by life imprisonment which cannot be mitigated under any circumstances.<sup>417</sup>

Despite this, two of the suspects extradited by the Netherlands and one extradited by Germany were given prison sentences of 25 years when they were convicted of genocide.<sup>418</sup> In the sentencing of the Dutch suspects, the judges referred to the fact that limiting the discretionary power of the judge to determine the sentence, as in Article 92 of the 2018 Penal Code, was contrary to Article 49. That article states that

<sup>414</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 96 and 98.

<sup>415</sup> The East African, *Solitary confinement to go in new Rwanda law proposals*, 20 October 2017; The New Times, *Bill on solitary confinement will advance human rights*, 3 April 2010.

<sup>416</sup> This exception also existed for sexual abuse of a child, as defined in Article 133 of the Penal Code.

<sup>417</sup> Penal Code: Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General, Articles 59, 60, 91, 92, 93 and 133, and Law No 69/2019 of 08/11/2019 amending Law No 68/2018 of 30/08/2018 Determining offences and penalties in general, Article 1, [Refworld | Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General](#), accessed 8 March 2023.

<sup>418</sup> KT Press, Jean Claude Iyemuremye gets 25 sentence for genocide crimes, 30 June 2021; Anadolu Agency, Rwandan man receives 25-year sentence over genocide charges, 17 March 2022; KT Press, *Genocide suspect Jean Twagiramungu sentenced to 25-year imprisonment*, 16 February 2023.

the judge determines the penalty according to the gravity, consequences of, and the motive for committing the offence, the offender's prior record and personal situation and the circumstances surrounding the commission of the offence.<sup>419</sup> All three suspects appealed their convictions.<sup>420</sup>

### 3.8.6 *Early release on parole*

Early release was possible on condition of good behaviour or in the event of an incurable illness diagnosed by a doctor. However, the convicted person had to have served part of his or her sentence: at least one third of a prison sentence of up to five years, at least two thirds of a prison sentence of more than five years, and at least twenty years of a life sentence.<sup>421</sup> An application for early release on parole had to be made in writing to the Minister of Justice, with a copy to the Commissioner General of the Rwanda Correctional Service (RCS).<sup>422</sup> This possibility was reportedly used very rarely, and not in genocide cases.<sup>423</sup>

### 3.8.7 *Presidential pardon*

The Penal Code also provided for a presidential pardon. The law permitted the president of the republic to grant this pardon to both individuals and groups at his or her sole discretion and in the general interest.<sup>424</sup> According to a confidential source, a presidential pardon was also possible in cases of life imprisonment.<sup>425</sup>

In recent years, President Kagame has issued a presidential pardon several times. More than 3,500 individuals were released in 2018, including Victoire Ingabire and Kizito Mihigo.<sup>426</sup> In 2019, the president pardoned hundreds of women and girls serving life sentences for abortion.<sup>427</sup> In 2022, hundreds more convicts were released (on parole).<sup>428</sup> In March 2023, under heavy pressure from the US, Paul Rusesabagina was released with a presidential pardon, at the same time as another 380 people.<sup>429</sup>

## 3.9 **Treatment of genocide perpetrators**

<sup>419</sup> Confidential source, June 2021; Confidential source, March 2022.

<sup>420</sup> The New Times, *Twagiramungu sentenced to 25 years in jail over genocide*, 16 February 2023; Confidential source, May 2023.

<sup>421</sup> Penal Code: *Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General*, Articles 232 and 233, [Refworld | Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General](#), accessed 8 March 2023.

<sup>422</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, March 2023.

<sup>423</sup> Confidential source, March 2023.

<sup>424</sup> Penal Code: *Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General*, Articles 70, 71, 71, [Refworld | Rwanda: Law N° 68/2018 of 30/08/2018 Determining Offences and Penalties in General](#), accessed 8 March 2023.

<sup>425</sup> Confidential source, February 2023.

<sup>426</sup> Ministry of Justice, The Cabinet meeting approved the pardon granted to a convict, a collective pardon to 36 young women for abortion and conditional release of 3,596, [The Cabinet meeting approved the pardon granted to a convict, collective pardon to 36 young women convicted for abortion and conditional release of 3,596 \(minijust.gov.rw\)](#).

<sup>427</sup> Ministry of Gender and Family Planning, [MIGEPROF: President KAGAME pardons women and girls jailed over abortion](#), 4 April 2019, accessed 6 April 2023.

<sup>428</sup> KT Press, Kagame pardons 12 convicts, 802 released on parole, 12 November 2022.

<sup>429</sup> TV5Monde, *Rwanda : libération de l'opposant Paul Rusesabagina*, 26 March 2023, ([169 Rwanda : libération de l'opposant Paul Rusesabagina - YouTube](#), accessed 29 March 2023; Rwanda Ministry of Justice, *Commutation by Presidential order of prison sentences of Paul Rusesabagina, Commutation by Presidential Order of prison sentences of Paul RUSESABAGINA (minijust.gov.rw)*, accessed 16 April 2023.

During the reporting period, prosecution of individuals suspected of genocide continued.<sup>430</sup> According to a confidential source, there was still a strong demand for justice in Rwandan society; citizens wanted to know that genocide perpetrators, also referred to as *génocidaires* in the Rwandan context, were being prosecuted.<sup>431</sup>

Those who had served their sentence were supported in returning to their communities of origin. The church often played an important role in this, according to a source.<sup>432</sup> Since the release of those convicted of more serious forms of genocide will become increasingly common in the coming years, during the reporting period more thought was given to other forms of support for return to the community, such as the establishment of halfway houses<sup>433</sup>, trauma processing and reconciliation activities, resocialisation programmes and skills training.<sup>434</sup>

The return of convicted genocide perpetrators into society was generally a difficult process in which emotions and trauma could lead to tensions and isolation. However, confidential sources state that Rwandans usually would not dare or wish to act on this.<sup>435</sup> According to a confidential source, a person returning to society was generally told to keep quiet. Surveillance at local level through informants was high; if problems arose between returnees and the community, the authorities intervened immediately. The authorities did not allow emotions on the part of either victims or perpetrators.<sup>436</sup> At the same time, it is not customary for Rwandans to talk about traumas and emotions, even among themselves.<sup>437</sup> The authorities organised moments for controlled releases of emotion and trauma, such as during the genocide commemorations in the month of April.<sup>438</sup> In addition, so many Rwandans had been guilty of and victims of genocide that handling such situations was part of everyday life in Rwanda. According to two confidential sources, Rwandans were generally compliant and preferred to focus on the future.<sup>439</sup>

It made no difference to his or her treatment by the authorities whether the genocide perpetrator returned from abroad or was in Rwanda.<sup>440</sup> There was a great sense of resentment among citizens against genocide perpetrators who had built a life abroad and turned their backs on other perpetrators and victims in the process of reconstructing the country and society. It was also often assumed that those who had fled were among the main culprits. This is why the trial of genocide suspects living abroad was considered even more important than the trial of those living in Rwanda. According to a confidential source, society attached more importance to the fact of the suspect being tried than to how the trial went.<sup>441</sup>

Individuals who, as well as being suspected of genocide, were seen by the Rwandan security apparatus as a real threat to security and stability (see also 2.7.1, 4.1.1.8 and 4.2.1) ran the same risk of arbitrary, incommunicado detention on their return as those with the same profile who had never left Rwanda. According to two

<sup>430</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>431</sup> Confidential source, February 2023.

<sup>432</sup> Confidential source, February 2023.

<sup>433</sup> Halfway houses are homes close to the family/community that allow the released individual to reintegrate into society slowly without completely returning home immediately.

<sup>434</sup> Confidential source, February 2023; Confidential source, April 2023.

<sup>435</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, April 2023.

<sup>436</sup> Confidential source, February 2023.

<sup>437</sup> Confidential source, February 2023; Confidential source, April 2023.

<sup>438</sup> Confidential source, February 2023.

<sup>439</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>440</sup> Confidential source, February 2023.

<sup>441</sup> Confidential source, February 2023.

confidential sources, this risk could be mitigated by returning voluntarily and by expressing remorse publicly and to the authorities beforehand.<sup>442</sup>

### 3.10 Plans for the taking over of asylum seekers by Rwanda

#### 3.10.1 United Kingdom

##### 3.10.1.1 MoU

On 13 April 2022, the United Kingdom and Rwanda signed a memorandum of understanding (MoU) regarding the taking over by Rwanda of certain asylum seekers. The agreement concerned asylum seekers from third countries whose asylum application was considered inadmissible by the UK because they had travelled illegally to the UK through a safe third country. Rwanda would take over the asylum procedure for these asylum seekers, and those who obtained refugee status would then be allowed to settle in Rwanda.<sup>443</sup> The MoU does not mention a limit on the number of asylum seekers to be taken over; according to a confidential source, the numbers quoted by the two sides varied considerably.<sup>444</sup> It is also not specified whether any nationalities or groups are excluded from the agreement. The agreement is valid for five years, after which it will be evaluated. The agreement does not deal with the financial arrangements, but it is known that it involves a significant financial envelope (reportedly at least 120 million pounds of budgetary support, excluding an individual budget per person for integration and living allowances).<sup>445</sup>

##### 3.10.1.2 Assessment of the human rights situation

In May 2022, the UK Home Office published several country information documents about Rwanda, including a report on the human rights situation and a report on the asylum system in Rwanda.<sup>446</sup> According to a confidential source, as usual the Home Office itself drew up the ToR for these reports. According to the same source, these reports differed slightly from the regular country of origin information reports because the research also looked at the situation for non-Rwandans. During the research for the reports, research results were used as input for the negotiations with Rwanda.<sup>447</sup>

##### 3.10.1.3 Reactions to the MoU

The committee of the UK's House of Lords that normally scrutinises treaties took a position on the MoU in October 2022, despite the fact that political agreements such

<sup>442</sup> Confidential source, March 2023.

<sup>443</sup> *Memorandum of Understanding between the UK and Rwanda for the provision of an asylum partnership arrangement*, [Memorandum of Understanding between the government of the United Kingdom of Great Britain and Northern Ireland and the government of the Republic of Rwanda for the provision of an asylum partnership arrangement - GOV.UK \(www.gov.uk\)](#), accessed 14 March 2023; *Note Verbale on assurances in paragraphs 8 and 10 of the MoU between the United Kingdom and Rwanda for the provision of an asylum partnership arrangement*, 22 November 2022, [Note Verbale on assurances in paragraphs 8 and 10 of the MoU between the United Kingdom and Rwanda for the provision of an asylum partnership arrangement \(accessible\) - GOV.UK \(www.gov.uk\)](#), accessed 14 March 2023.

<sup>444</sup> Confidential source, April 2023.

<sup>445</sup> *Memorandum of Understanding between the UK and Rwanda for the provision of an asylum partnership arrangement*, [Memorandum of Understanding between the government of the United Kingdom of Great Britain and Northern Ireland and the government of the Republic of Rwanda for the provision of an asylum partnership arrangement - GOV.UK \(www.gov.uk\)](#), accessed 14 March 2023; Confidential source, April 2023.

<sup>446</sup> UK Home Office, *Rwanda: Country policy and information notes*, 7 May 2022, [Rwanda: country policy and information notes - GOV.UK \(www.gov.uk\)](#), accessed 18 April 2023.

<sup>447</sup> Confidential source, April 2023.

as an MoU do not have to be submitted to parliament. According to the committee, the agreement had far-reaching implications in the area of human rights and should therefore not have been concluded in the form of an MoU, which is not enforceable under international law. The committee, supported by the UK Law Society, argued that for the UK to be able to legally enforce the commitments given by the Rwandan authorities to fully protect the rights of the asylum seekers concerned, the agreement should have been concluded in the form of a treaty.<sup>448</sup>

The UN refugee agency UNHCR spoke out against the agreement, judging that it aims to shift responsibility [for the handling of asylum applications] and lacks the necessary safeguards, and as such 'is incompatible with the letter and spirit' of the Refugee Convention.<sup>449</sup> The organisation also expressed its concern that the agreement would lead to violations of the principle of non-refoulement.<sup>450</sup> It recalled that Rwanda had failed to provide security or a lasting solution to persons previously transferred from Israel to Rwanda under a bilateral agreement.<sup>451</sup> Both the British Migration Policy Institute and UNHCR called the agreement an attempt to evade fair burden-sharing between developing countries and the rest of the world in relation to refugee protection.<sup>452</sup> The UN Special Rapporteur on Trafficking in Persons expressed concern that the agreement would contribute to an increase in human trafficking.<sup>453</sup>

#### 3.10.1.4 Legal tenability of the MoU

In June 2022, two months after the signing of the MoU, the UK's first aircraft that was to transport asylum seekers to Rwanda was grounded as a result of ECtHR interim measures.<sup>454</sup>

In December 2022, the UK high court ruled that the agreement was legally valid.<sup>455</sup> According to the judge, the British government had conducted a thorough investigation before designating Rwanda as a safe third country.<sup>456</sup> However, the court overturned the earlier decisions of the British government to deport eight

<sup>448</sup> House of Lords, International Agreements Committee, *7th Report of Session 2022–23, Memorandum of Understanding between the UK and Rwanda for the provision of an asylum partnership arrangement*, 18 October 2022; The Law Society, UK-Rwanda MoU for the provision of an asylum partnership arrangement – Law Society response, 7 February 2023.

<sup>449</sup> UNHCR Analysis of the Legality and Appropriateness of the Transfer of Asylum Seekers under the UK-Rwanda arrangement, 8 June 2022, <https://www.unhcr.org/uk/media/unhcr-analysis-legality-and-appropriateness-transfer-asylum-seekers-under-uk-rwanda>, § 26.

<sup>450</sup> The principle of non-refoulement means that no one may be deported to a country where he or she could be subjected to torture and/or cruel, inhuman or degrading treatment.

<sup>451</sup> UNHCR, *Analysis of the legality and appropriateness of the transfer of asylumseekers under the UK-Rwanda arrangement*, 8 June 2022.

<sup>452</sup> Migration Policy Institute, *The UK-Rwanda Agreement Represents Another Blow to Territorial Asylum*, April 2022; UNHCR, *Analysis of the legality and appropriateness of the transfer of asylumseekers under the UK-Rwanda arrangement*, 8 June 2022.

<sup>453</sup> OHCHR, *UN expert urges UK to halt transfer of asylum seekers to Rwanda*, 17 June 2022.

<sup>454</sup> European Court of Human Rights, *Press release, 197 (2022) Press release, The European Court grants urgent interim measure in case concerning asylumseeker's imminent removal from the UK to Rwanda*, 14 June 2022; The Guardian, *Rwanda asylum flight cancelled after 11th-hour ECHR intervention*, 14 June 2022; Asia News Monitor, *United Kingdom/Rwanda: UK migrant deportations to Rwanda set to go ahead after NGOs lose legal challenge*, 13 June 2022.

<sup>455</sup> AAA and others vs Secretary of State for the home Department, 19 December 2022, [AAA and others -v- Secretary of State for the Home Department - Courts and Tribunals Judiciary](#), accessed 14 March 2023.

<sup>456</sup> UK Constitutional Law Association, *UK Government Assessments of Risk to Refugees and ECHR Constraints on UK Immigration Policy in the Rwanda Ruling*, 7 February 2023; UK Home Office, *Review of asylum processing Rwanda: assessment*, May 2022; UK Home Office, *Review of asylum processing Rwanda: country information on the asylum system*, May 2022; UK Home Office, *Review of asylum processing Rwanda: country information on general human rights*, May 2022, [Rwanda: country policy and information notes - GOV.UK \(www.gov.uk\)](#), accessed 14 March 2023; Confidential source, February 2023.

asylum seekers. The court ruled that the British government had not provided sufficient reasons to show that the asylum applications were inadmissible.<sup>457</sup>

In January 2023, an appeal against the British high court ruling was declared admissible on a number of points. These points concerned whether or not the policy of removing asylum seekers from third countries to Rwanda was systematically unfair, and whether the UK was entitled to rely solely on assurances given by the Rwandan authorities.<sup>458</sup>

It is still unclear when the appeal procedures will be completed.<sup>459</sup> On 11 April 2023, the ECtHR invited the UK to submit its observations on the application lodged. This notification initiated the substantive treatment of the case by the Court.<sup>460</sup> Only after the ECtHR's judgment on these and similar cases will it be known whether the UK-Rwanda MoU and the policy based on it are consistent with the European Convention on Human Rights (ECHR).

At the end of the reporting period of this country report, no asylum seekers had yet been transferred to Rwanda.<sup>461</sup>

In March 2023, the UK launched a 54.3-million-dollar project to fund accommodation for an expected 1,500 asylum seekers under the UK-Rwanda agreement.<sup>462</sup>

### 3.10.2 Denmark

On 9 September 2022, the Rwandan and Danish authorities signed a statement expressing their joint ambition to establish a mechanism for the transfer of asylum seekers.<sup>463</sup> At the end of the reporting period, an agreement had not yet been concluded. After the elections in Denmark at the end of 2022, the Danish Minister of Immigration and Integration stated that Denmark still intended to conclude an agreement with Rwanda, but that it was pausing the process to see if it was possible to work together with other EU countries.<sup>464</sup>

In 2021, the African Union (AU) condemned the new Danish Alien Act, which makes it possible to transfer asylum seekers to third countries. The organisation accused Denmark of evading its responsibilities for equal burden-sharing as set out in the Refugee Convention, given that the poorest countries already host 85% of the world's refugees.<sup>465</sup>

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<sup>457</sup> The Guardian, *Judges allow partial appeal against Rwanda asylum seeker ruling*, 16 January 2023.

<sup>458</sup> Reuters, *London court allows appeal over UK's Rwanda migrant plan*, 17 January 2023.

<sup>459</sup> Confidential source, February 2023.

<sup>460</sup> European Court of Human Rights, *ECHR 112 (2023) Press release: Notification of case concerning asylum seeker's removal from the UK to Rwanda*, 11 April 2023.

<sup>461</sup> UK Parliament, House of Lords website, [UK-Rwanda asylum agreement: Why is it a memorandum of understanding and not a treaty? - House of Lords Library \(parliament.uk\)](#), accessed 14 March 2023.

<sup>462</sup> The New Times, *Kagame, UK Home Secretary discuss migration partnership*, 19 March 2023.

<sup>463</sup> Schengenvisa News, *Denmark & Rwanda Sign Declaration on Possible Transfer of Asylum Seekers*, 13 September 2022, [Denmark & Rwanda Sign Declaration on Possible Transfer of Asylum Seekers - SchengenVisaInfo.com](#), accessed 14 March 2023.

<sup>464</sup> Anadolu Agency, *Denmark puts asylum center talks with Rwanda on back burner*, 25 January 2023; Confidential source, January 2023; Confidential source, February 2023.

<sup>465</sup> African Union, *Press Statement on Denmark's Alien Act provision to Externalize Asylum procedures to third countries*, 2 August 2021.

## 4 Detention

### 4.1 Detention conditions

With regard to detention conditions, a distinction must be made between prisons, which fall under the RCS, transit centres, and detention centres run by the armed forces and police. Since 2021, RCS prisons have moved from being under the authority of the Ministry of Justice to being under the Ministry of Internal Security.<sup>466</sup> During the reporting period, the Rwandan authorities sometimes restricted independent observers' access to prisons, making it difficult to gain a complete picture of what was happening there.<sup>467</sup>

#### 4.1.1 Prisons

By way of introduction, it can be stated that detention conditions in RCS prisons were generally close to international standards<sup>468</sup>, but there was severe overcrowding with various consequences for hygiene and food supply. There were also reports of irregular, worse treatment for certain prisoners.<sup>469</sup>

##### 4.1.1.1 New prison in Kigali

In 2017, two prisons, Gasabo Prison and Kigali Central Prison, were closed due to their age. The prisoners were transferred to a new prison, Nyarugenge, in the Mageragere sector on the outskirts of Kigali.<sup>470</sup> Work on the prison was still in progress at the end of the reporting period, with a dining hall under construction and the road from Kigali to the prison being surfaced.<sup>471</sup> The new prison in Mageragere had a capacity of 12,000 beds, 1,500 of which were in the women's wing. There was also a special section for international detainees (see also 4.1.1.7).<sup>472</sup>

##### 4.1.1.2 Prison overcrowding

In the World Prison Brief database of prison information, in 2021 Rwanda came second after the US in the world ranking of countries with the highest number of prisoners per capita; the figure in Rwanda was 580 per 100,000 inhabitants. In 2021 these figures were 629 in the US and 60 in the Netherlands.<sup>473</sup>

<sup>466</sup> Confidential source, February 2023.

<sup>467</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, pp 493-494; Human Rights Watch, *2020 World report. Events of 2019, 2020*, p 484; Human Rights Watch, *2022 World report. Events of 2021, 2022*; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>468</sup> For more information on international standards for detention conditions, see: Association for the Prevention of Torture, *Material conditions of detention*, [Material conditions of detention | Association for the Prevention of Torture \(apt.ch\)](https://www.apt.ch/), accessed 16 April 2023.

<sup>469</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 5; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>470</sup> Website Rwanda Correctional Service, [NYARUGENGE Correction Facility – RWANDA CORRECTIONAL SERVICE \(rcs.gov.rw\)](https://www.rcs.gov.rw/) accessed 26 March 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>471</sup> Confidential source, February 2023.

<sup>472</sup> Rwanda Corrections Service website, [NYARUGENGE Correction Facility – RWANDA CORRECTIONAL SERVICE \(rcs.gov.rw\)](https://www.rcs.gov.rw/), accessed 23 February 2023; The East African, *End of an era, as first inmates leave Nyarugenge prison*, 24 February 2017; Confidential source, February 2023; Confidential source, February 2023.

<sup>473</sup> Rwanda Today, *Slow wheels of justice trigger crowding crisis in prisons*, 22 August 2022; World Prison Brief, *World Prison Population List*, 2021.

At the end of the previous reporting period, Rwandan prisons were not overcrowded: in 2015, the prison population was 54,000, compared with a capacity of 54,700.<sup>474</sup> Overpopulation increased markedly during the reporting period. In May 2022, 84,710 prisoners were being held in Rwanda's thirteen prisons. This represented an occupancy rate of 174%.<sup>475</sup>

The occupancy rates have developed as follows:

2014-2015: 99.6%  
2015-2016: 96.9%  
2016-2017: 114.60%  
2017-2018: 114.5%  
2018-2019: 124.8%.

Rwamagana prison in Eastern Province was the most overcrowded prison in 2022, with more than double the number of inmates for its capacity.<sup>476</sup>

Prison overcrowding had a major impact on the quality of life in prisons, particularly in terms of hygiene and food supply.<sup>477</sup>

#### 4.1.1.3 Placement of prisoners

Prisoners were generally placed in a prison in their area of origin and close to family. This made it possible for the family to visit the prisoner and supplement the prison services.<sup>478</sup> Prisoners reportedly could apply for a transfer if they wanted to be placed elsewhere.<sup>479</sup> Extradited prisoners were taken to Mageragere Prison on arrival, then transferred to Nyanza for trial, as that is where the specialised international chamber of the high court is located.<sup>480</sup>

Assignment to a particular prison did not take into account the offence for which a person was being or had been tried; convicted genocide perpetrators and detainees for general criminal offences shared the same living quarters.<sup>481</sup> The ratio of prisoners convicted of genocide to other detainees decreased during the reporting period. In 2022, 27,604 prisoners had been convicted of genocide, while 42,548 had been convicted of general criminal offences.<sup>482</sup>

Convicts and detainees in pre-trial detention also shared the same rooms, and could only be distinguished from each other by the colour of their uniform: pre-trial

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<sup>474</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, 18 August 2016, p 53.

<sup>475</sup> Transparency International and Legal Aid Forum, *Policy research on the implementation of alternatives to imprisonment in Rwanda*, August 2022, p 32; Confidential source, December 2022.

<sup>476</sup> Transparency International and Legal Aid Forum, *Policy research on the implementation of alternatives to imprisonment in Rwanda*, August 2022, p 11.

<sup>477</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>478</sup> UNDP, Project document: Strengthening the Rule of Law in Rwanda: Justice, peace and security for the people, 2018, p 7; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>479</sup> Confidential source, February 2023.

<sup>480</sup> The New Times, *International crimes High Court inaugurated in Nyanza*, 29 June 2018; International Commission of Jurists, *Initial Case report Venant R., July-August 2021*, § 41-42; Confidential source, February 2023; Confidential source, February 2023.

<sup>481</sup> UNDP, Project document: Strengthening the Rule of Law in Rwanda: Justice, peace and security for the people, 2018, p 7; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>482</sup> Transparency International and Legal Aid Forum, *Policy research on the implementation of alternatives to imprisonment in Rwanda*, August 2022, p 11; Confidential source, February 2023.



detainees wore pink and convicted prisoners wore orange.<sup>483</sup> In the international wings, pre-trial detainees and convicted prisoners also shared the same quarters.<sup>484</sup> As they did not wear uniforms, the distinction was not visible. The total number of pre-trial detainees was relatively high, at eighteen percent of the entire prison population in 2022; however, this represented a considerable decrease compared to the years 2019-2021, when the absolute number of pre-trial detainees was three times as high.<sup>485</sup>

#### *Women and minors*

Men and women were detained separately.<sup>486</sup> Women were allowed to keep their children with them until the age of three.<sup>487</sup> Rwanda had one prison for minors and one for women only. Not all prisons had a women's wing. As a result, women and children were often further away from their families, which could affect the extent to which they could be visited and supported by their families. Parents of children in juvenile detention received an allowance to visit their children.<sup>488</sup>

#### 4.1.1.4 Prison administration

Rwandan prisons were largely based on the principle of self-reliance and self-sufficiency. For example, the prisoners grew much of their own food and kept poultry and other livestock. They were also responsible for the layout of the large, open dormitories and the cleaning of these and other common areas. They set up committees for this purpose. The prison staff ensured that hygiene requirements were met.<sup>489</sup>

Incoming prisoners were examined at a prison clinic to see if they had a chronic disease or needed medication. They were then logged in the electronic case management system. Among other things, this system sent a notification when the date of release was approaching, so that detainees would no longer spend too long in pre-trial detention or detention.<sup>490</sup>

#### 4.1.1.5 Facilities

There were washrooms in all wings. Depending on the prison, there were classrooms and workshops for weaving, sewing, hairdressing, electrical engineering, handicrafts and furniture making. Other activities included agriculture and horticulture, sports, building, repairing cars, music, dance and drama and literacy. At the end of some technical courses, participants received official diplomas or certificates issued by the Ministry of Education. There were televisions in the prisons and prisoners could at least watch the news and football matches. During the COVID-19 lockdown of 2020 and 2021, the prisoners had no visitation rights, but

<sup>483</sup> UNDP, Project document: Strengthening the Rule of Law in Rwanda: Justice, peace and security for the people, 2018, p 7; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>484</sup> International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, pp 12-13.

<sup>485</sup> Transparency International and Legal Aid Forum, *Policy research on the implementation of alternatives to imprisonment in Rwanda*, August 2022, p 6.

<sup>486</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 5; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>487</sup> US Department of State, *2022 country report on human rights practices*, Rwanda, 2023, p 5; Confidential source, February 2023.

<sup>488</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, April 2023.

<sup>489</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, pp 55-56; Confidential source, February 2023; Confidential source, February 2023; Confidential source, April 2023.

<sup>490</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, pp 55-56; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

since 2022, Friday has again become the general visiting day. The detainees were allowed to practise their religion.<sup>491</sup>

According to the RCS, each prison had large dormitories (a hundred to a hundred and fifty people) with triple bunk beds, toilets, sports facilities, a clinic, a reception room, a kitchen, water and electricity.<sup>492</sup> The services provided were basically the same in all prisons, but there were differences due to the age of the buildings, the distance from the capital (and the logistical complications related to this), and the degree of overcrowding.<sup>493</sup> With the exception of international prisoners who fell within the scope of the Transfer Law, prisoners received one meal a day. Relatives were allowed to leave money with which the prisoners could buy extra food in the prison shop, but food security was a problem in the prisons, according to several sources. This was made worse by the increasing overcrowding in the prisons (see also 4.1.1.2) and the fact that the prisons were closed to visitors during the years 2020-2021 due to the COVID-19 pandemic, which meant that family members were unable to supplement what was provided by the prisons.<sup>494</sup>

#### *Medical facilities for detainees*

According to a confidential source, minimum standards for medical care in prisons were generally met. However, there could be logistical and budgetary problems<sup>495</sup>, partly as a result of overcrowding in the prisons.<sup>496</sup>

Mageragere Prison had two laboratories, a pharmacy, doctors and a psychologist; Nyanza Prison had ten nurses and two lab technicians. The seriously ill were transferred to nearby hospitals or, when necessary, to King Faisal Hospital in Kigali. The clinics also had facilities for HIV patients, who received new HIV inhibitors every month. All costs were covered by insurance, supplemented by the authorities.<sup>497</sup>

Persons extradited under the Transfer Law received special medical support.<sup>498</sup> One of the individuals extradited from the Netherlands told the independent observer that the prison director did his best to ensure that his meals were provided according to the doctor's instructions.<sup>499</sup>

#### 4.1.1.6 Detention conditions for genocide perpetrators

In official prisons there was no difference in the treatment of detainees who had been imprisoned for their role in the genocide and other detainees. There was also no difference in treatment between persons sentenced after being deported and other prisoners, with the exception of Léon Mugesera, for whom the Canadian authorities made it a condition that he must be deported under the Transfer Law (see also 3.3.3).<sup>500</sup> There was no reason to think that normal prisoners were treated

<sup>491</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, pp 55-56; Confidential source, February 2023; Confidential source, February 2023.

<sup>492</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, pp 55-56; Confidential source, February 2023; Confidential source, February 2023.

<sup>493</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>494</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 5; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>495</sup> Confidential source, February 2023.

<sup>496</sup> Transparency International en Legal Aid Forum, *Policy research on the implementation of alternatives to imprisonment in Rwanda*, August 2022.

<sup>497</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>498</sup> Confidential source, February 2023.

<sup>499</sup> International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022, p 13.

<sup>500</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

differently by the prison authorities from international prisoners<sup>501</sup>, although the living conditions of the prisoners in the international wings were undeniably more comfortable (see also 4.1.1.7).<sup>502</sup> At the same time, prisoners in the official prison system, including those convicted of genocide, were generally treated better than prisoners in extrajudicial detention centres and transit centres (see 4.1.2 and 4.1.3 for more information).

#### 4.1.1.7 Detention conditions under the Transfer Law

Special wings were set up in both Mageragere (Kigali)<sup>503</sup> and Nyanza Prisons for prisoners extradited under the Transfer Law. These wings were completely closed off from the other wings.<sup>504</sup> Since the relocation of the specialised international chamber of the high court from Kigali to Nyanza in 2018, extradited suspects have been received in the prison in Kigali on arrival in Rwanda and then transferred to Nyanza (a few hours' drive from Kigali). They stayed there while their trial was in progress. After a verdict had been reached, these prisoners could choose between the international wings of Kigali or Nyanza. Mageragere (Kigali) had one hundred cells for international detainees, while Nyanza had 32. The cells in Nyanza were larger than those in Mageragere. Both international wings held only male prisoners. The prison in Nyanza had no women's wing at all, and in Mageragere there was no international section in the women's wing.<sup>505</sup>

Detention conditions in the international wings of Mageragere and Nyanza differed from those in the wings for other prisoners. In the international wings, the detainees each had their own spacious cell with a bed, a table and a chair and a private bathroom with a shower and toilet. They received three meals a day and access to sports facilities and medical care at Kigali's main hospital.<sup>506</sup> The prisoners had the right to wear their own clothes and did not have to wear the prison uniform<sup>507</sup> that other prisoners wore. They were let out of their cells at 6 am and had to go back in at 9 pm. Some detainees had purchased their own television.<sup>508</sup> According to a confidential source, the Rwandan public felt uneasy about the difference in prison conditions for international and national prisoners, but it was not a major topic of discussion.<sup>509</sup>

The reports on the cases of the suspects extradited by the Netherlands showed that the suspects generally found their detention conditions acceptable.<sup>510</sup> However, in recent years two of the suspects have complained about alleged spying via

<sup>501</sup> The term 'international prisoners' here means prisoners being held in the international wings of the prisons. These could be Rwandans who had been arrested abroad and extradited to Rwanda – or in Mugesera's case deported to Rwanda – or foreign prisoners who had been convicted by an international tribunal and were serving their sentences in Rwanda.

<sup>502</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>503</sup> Also known as Nyarugenge.

<sup>504</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>505</sup> The New Times, *International crimes High Court inaugurated in Nyanza*, 29 June 2018; Confidential source, February 2023; Confidential source, February 2023.

<sup>506</sup> International Commission of Jurists, *Final monitoring report Jean Claude I.*, August 2021; International Commission of Jurists, *Final monitoring report Jean Baptiste M.*, 16 June 2022; Confidential source, March 2023.

<sup>507</sup> Prisoners wear a pink uniform pending their verdict, and an orange one after their conviction.

<sup>508</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>509</sup> Confidential source, February 2023.

<sup>510</sup> International Commission of Jurists, *Monitoring report on Jean Claude I. November-December 2016*, § 20; International Commission of Jurists, *Monitoring report on Jean Claude I. October 2017*, § 6; International Commission of Jurists, *Monitoring report on Jean Claude I. April-May 2019*, § 12; International Commission of Jurists, *Monitoring report on Venant R. March-May 2022*, § 32; International Commission of Jurists, *Monitoring report on Jean Claude I. November-December 2018*, §256.

computers. For one of them this was a regularly recurring complaint.<sup>511</sup> There were also complaints that suspects' discussions with their lawyers were not sufficiently confidential.<sup>512</sup> There were also sometimes complaints about the visiting arrangements and the limited possibilities for phoning family<sup>513</sup>, and the transport to and from the court.<sup>514</sup> According to confidential sources, the Rwandan prison authorities were generally open to discussion about detention conditions with both the suspects and the observers, and adjustments were made where possible.<sup>515</sup>

In 2020, the African Court on Human and Peoples' Rights ruled that Léon Mugesera had been subjected to cruel, inhuman and degrading treatment in the form of threats (including death threats) and deprivation of food and communication with family and his lawyer.<sup>516</sup> Rwanda was not represented in this case because it did not recognise the court's jurisdiction.<sup>517</sup> It was not possible to determine from the court reports where Mugesera, who had been deported from Canada in 2012 and for whom Canada had stipulated that the Transfer Law applied (see also 3.3.3), was detained at the time of this cruel, inhuman and degrading treatment. He had initiated proceedings in 2017. It was only from 2016 – around the time of his conviction – that he was detained in the international wing of the prison in Nyanza.<sup>518</sup> Although it could not be determined where he was detained from 2012 to 2016, it can be assumed that it was in the former Central Prison 1930 in Kigali, as the specialised international chamber of the high court was located in Kigali until 2018 (see also 3.1.1 and 3.5.2). Central Prison 1930 had modified wings for transferred prisoners, according to US Department of State human rights reports.<sup>519</sup> It could not be determined how the detention conditions in these wings compared to the international wings in the new Mageragere Prison in Kigali and Mpanga Prison in Nyanza described above.

- 4.1.1.8 Detention conditions for persons perceived as a threat to state security  
Proper prison conditions could not be guaranteed for political prisoners and other persons perceived as a threat to the security and stability of Rwanda. They were regularly held incommunicado in extrajudicial detention centres, particularly during

<sup>511</sup> International Commission of Jurists, *Monitoring report on Jean Claude I., February-April 2019*, §29, 34, 35, 40, 43; International Commission of Jurists, *Monitoring report on Jean Claude I. October-December 2020*, § 63, 67, 94; International Commission of Jurists, *Monitoring report on Jean Claude I., December 2020- February 2021*, § 58; International Commission of Jurists, *Monitoring report on Jean Baptiste M, February-April 2019*, § 14, 19.

<sup>512</sup> International Commission of Jurists, *Monitoring report on Jean Claude I., November-December 2018*, §79; International Commission of Jurists, *Monitoring report on Jean Claude I. July-September 2018*, § 20, 34; International Commission of Jurists, *Monitoring report on Jean Claude I. November-December 2016*, § 79.

<sup>513</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M, May-June 2017*, § 31; International Commission of Jurists, *Monitoring report on Jean Baptiste M, August-September 2017*, § 23; International Commission of Jurists, *Monitoring report on Jean Baptiste M, October-November 2018*, § 36; International Commission of Jurists, *Monitoring report on Jean Claude I., November-December 2016*, § 61; International Commission of Jurists, *Monitoring report on Jean Claude I., May-June 2017*, § 46-47; *Monitoring report on Venant R, October-December 2021*, § 36.

<sup>514</sup> International Commission of Jurists, *Monitoring report on Jean Baptiste M., December 2019-February 2020*, § 8; International Commission of Jurists, *Monitoring report on Jean Claude I., February-April 2019*, §3-6, 29.

<sup>515</sup> Confidential source, March 2023; Confidential source, April 2023.

<sup>516</sup> African Court on Human and Peoples' Rights, *Judgment in the matter of Léon Mugesera vs the State of Rwanda, Application no 012/2017*, 27 November 2020, paragraphs 87-91.

<sup>517</sup> African Court on Human and Peoples' Rights, *Judgment in the matter of Léon Mugesera vs the State of Rwanda, Application no 012/2017*, 27 November 2020, § 2.

<sup>518</sup> IRMCT, *Request for revocation of order referring the Jean Uwinkindicase, transferred to Rwanda by the ICTR in 2012*, [MSC9306R0000513009.pdf \(irmct.org\)](https://www.irmct.org/MS/C9306R0000513009.pdf), paragraphs 33, 35, 37 and 41. It is clear from this that Mugesera was staying in the Delta Wing of Mpanga Prison in Nyanza.

<sup>519</sup> US Department of State, 2012 *Country report on human rights practices Rwanda*, 2013; 2013 *Country report on human rights practices Rwanda*, 2014; 2014 *Country report on human rights practices Rwanda*, 2015; 2015 *Country report on human rights practices Rwanda*, 2016.

interrogations (see also 4.2.1).<sup>520</sup> According to confidential information, political prisoners in Mageragere Prison were isolated from other prisoners, were only allowed out of their cells for two hours a day and were not allowed to participate in activities (see also 4.2.2).<sup>521</sup>

According to her lawyer, prison authorities deprived Victoire Ingabire of her right to communicate with her family in 2017 after the African Court on Human and Peoples' Rights ruled that Ingabire had not had a fair trial.<sup>522</sup>

#### 4.1.2 *Transit and rehabilitation centres*

In addition to the official prison system, Rwanda had 28 transit centres and three rehabilitation centres. These centres were subject to the National Rehabilitation Law of 2017, which allowed individuals exhibiting 'deviant behaviors' to be detained for two months without having to provide any legal justification and then be transferred to rehabilitation centres. An April 2018 ministerial order defined 'deviant behaviors' as 'prostitution, drug use, begging, vagrancy, informal street vending, or any other deviant behavior that is harmful to the public'.<sup>523</sup> The Rwandan government has set itself the goal of eradicating such behaviour and re-educating street children and reuniting them with their families.<sup>524</sup> LGBTQI+ individuals were also sometimes detained in these transit centres.<sup>525</sup>

Detention conditions in transit centres were poor. Detainees, including small children, were beaten, and the authorities failed to provide basic services such as food or clean water. Prisoners sometimes slept on the floor without a mattress.<sup>526</sup> In February 2020, the UN Committee on the Rights of the Child expressed its concern about the detention of street children in transit centres.<sup>527</sup> Gikondo Transit Centre in Kigali, popularly known as *Kwa Kabuga*, was still operating during the reporting period despite the senate calling in 2008 for the centre to be closed due to substandard detention conditions.<sup>528</sup>

#### 4.1.3 *Extrajudicial detention centres run by the army and police*

<sup>520</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3; Confidential source, February 2023.

<sup>521</sup> Confidential source, June 2022.

<sup>522</sup> BBC Monitoring, *Rwanda ignores African court ruling on opposition leader*, 29 May 2018.

<sup>523</sup> Rwanda National Rehabilitation Service website, *Ministerial order*, [Ministerial Order determining mission, organization and functioning of transit centers.pdf \(nrs.gov.rw\)](#), accessed 18 March 2023; Human Rights Watch, *2021 World report. Events of 2020*, 2021, p 576; The New Times, *Delinquents Joining Transit Centres to Be Quarantined*, 31 March 2020; Rwanda National Rehabilitation Service website, *District Transit Centers*, [District Transit Centers \(nrs.gov.rw\)](#), accessed 18 March 2023; Rwanda National Rehabilitation Service website, *Organigram*, [National Rehabilitation Service Organisation Structure.pdf \(nrs.gov.rw\)](#), accessed 18 March 2023.

<sup>524</sup> Top Africa News, *Rwanda pledges to eradicate delinquency, demands security forces to intervene*, June 2018, <https://www.topafricanews.com/2018/06/07/rwanda-pledges-to-eradicate-all-forms-of-delinquency-demands-security-forces-to-intervene/>, accessed 12 March 2023; The New Times, *Delinquents Joining Transit Centres to Be Quarantined*, 31 March 2020.

<sup>525</sup> Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 484; Human Rights Watch, *2022 World Report 2022. Events of 2021*, 2021, p 566.

<sup>526</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 5; Human Rights Watch, *Rwanda: Submission to the UN Committee on Economic, Social and Cultural Rights*, 17 January 2023; Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 484; Human Rights Watch, *2021 World report. Events of 2020*, 2021, p 576; Confidential source, February 2023.

<sup>527</sup> Committee on the Rights of the Child (CRC/20/05), *Experts of the Committee on the Rights of the Child hail progress in Rwanda, but express concern about street and refugee children and worst forms of child labour*, 28 January 2020.

<sup>528</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 5; Human Rights Watch, *"As Long as We Live on the Streets, They Will Beat Us". Rwanda's Abusive Detention of Children*, 27 January 2020.

During the reporting period, people were held in police or army cells in extrajudicial detention centres. Information on conditions in these detention centres was difficult to obtain because observers had no access to them.<sup>529</sup> However, there were reports during the reporting period of ill-treatment and intimidation by police, military intelligence and prison guards, and inadequate access to food, water and health care.<sup>530</sup> Reports of ill-treatment and torture by the military intelligence service mainly concerned political opponents or persons perceived as a threat to state security. The ill-treatment was reportedly mainly aimed at obtaining information.<sup>531</sup> Kwa Gacinya was an extrajudicial police detention centre in Kigali that was often mentioned in reports of ill-treatment.<sup>532</sup>

## 4.2 Ill-treatment and torture in detention

### 4.2.1 *Ill-treatment and torture in irregular detention*

Prisoners perceived as a threat to state security, including critics of the authorities, often spent time in military or police extrajudicial detention facilities, in some cases incommunicado.<sup>533</sup> There were reports that detainees were subjected to torture and ill-treatment during this extrajudicial detention.<sup>534</sup> After their acquittal in 2020, members of the FDU-Inkingi gave interviews on YouTube in which they talked about how they had been mistreated in detention during the police investigation.<sup>535</sup> Paul Rusesabagina said that during the first days of his detention in August 2020 he was bound, blindfolded and beaten. In 2022, Aimable Karasira complained twice in court about ill-treatment and torture. The second time, he said that he had been beaten because in his previous appearance in court he had complained about his ill-treatment and the fact that he had been denied medical care.<sup>536</sup> During the reporting period, at least three people died in detention under suspicious circumstances: lawyer Donat Mutunzi, who was known for operating independently, in 2018; the popular singer Kizito Mihigo in 2020; and the rapper Joshua Tusyishime, known by the name Jay Polly, in 2021.<sup>537</sup>

Arbitrary detention again took place in transit centres during this reporting period (see also 4.1.2). Conditions in these centres were poor. Detainees, including small children, were beaten, and the authorities failed to provide basic services such as

<sup>529</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, pp 493-494; Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 484; Human Rights Watch, *2022 World report. Events of 2021*, 2022; Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>530</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, pp 493-494; Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 484; Human Rights Watch, *2022 World report. Events of 2021*, 2022; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 3-4.

<sup>531</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 3-4; Human Rights Watch, *2019 World report. Events of 2018*, 2019, pp 493-494; Human Rights Watch, *2020 World report. Events of 2019*, 2020, p 484.

<sup>532</sup> Dutch Ministry of Foreign Affairs, *Country report on Rwanda*, August 2016, p 59; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 3; Human Rights Watch, *2022 World report. Events of 2021*, 2022; Human Rights Watch, *2021 World report. Events of 2020*, 2021, pp 573-575; Human Rights Watch, *Rwanda: Politician Convicted for Harming Rwanda's Image*, 18 January 2023.

<sup>533</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 8-9; Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022; Confidential source, February 2023; Confidential source, February 2023.

<sup>534</sup> Confidential source, February 2023; Confidential source, June 2018.

<sup>535</sup> Human Rights Watch, *2022 World report. Events of 2021*, 2022.

<sup>536</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 4.

<sup>537</sup> Human Rights Watch, *2019 World report. Events of 2018*, 2019, p 494; Human Rights Watch, *2021 World report. Events of 2020*, 2021; Amnesty International, *2021 Annual report*, 2022, p 316; Confidential source, June 2018.

food or clean water. Prisoners sometimes slept on the floor without a mattress.<sup>538</sup> However, according to a confidential source, torture was not practised there.<sup>539</sup>

#### 4.2.2 *Ill-treatment and torture in official detention*

According to confidential sources, the regular prison system has become more professional over the years and ill-treatment of prisoners in the regular prison system has become very rare.<sup>540</sup> In 2017, solitary confinement, which was part of the sentence of 'life imprisonment with special provisions'<sup>541</sup>, was also officially abolished.<sup>542</sup>

However, there were also reports of people who had been victims of torture and ill-treatment and solitary confinement in official prisons. In response to Rusesabagina's complaint that he was in solitary confinement, the RCS responded that solitary confinement did not exist in Rwanda; the fact that Rusesabagina had been given a single room in the prison was, according to the RCS, an expression of the policy of meeting the specific interests of prisoners as much as possible.<sup>543</sup>

Dieudonné Niyonsenga said that in the Mageragere Prison he was confined in a cell measuring one metre by one metre, full of water and mosquitoes, and got no exercise.<sup>544</sup> According to the FDU-Inkingi members mentioned above who gave interviews about their ill-treatment in detention, this also took place in Mageragere and Nyanza Prisons.<sup>545</sup>

According to confidential information, several political prisoners were isolated from the other prisoners in Mageragere Prison. They were kept four men to a cell, apparently in the women's wing. They were not allowed to participate in religious, sporting or cultural activities and were only allowed out of their cells for two hours a day: one hour in the morning and one hour in the evening. According to the information, it was not clear how many prisoners were involved.<sup>546</sup>

#### 4.2.3 *Complaints about ill-treatment and torture*

Complaints about ill-treatment and torture could be submitted through a lawyer.<sup>547</sup> They were handled internally by the military, the police and prison authorities. According to the US government's human rights report, there was no independent body to investigate such complaints.<sup>548</sup> According to a confidential source, the National Commission for Human Rights regularly organised unannounced visits to

<sup>538</sup> Human Rights Watch, *Rwanda: Submission to the UN Committee on Economic, Social and Cultural Rights*, 17 January 2023; Human Rights Watch, *2020 World report. Events of 2019, 2020*, p 484; Human Rights Watch, *2021 World report. Events of 2020, 2021*, p 576.

<sup>539</sup> Human Rights Watch, *2019 World report. Events of 2018, 2019*, pp 493-494; Human Rights Watch, *2022 World report. Events of 2021, 2022*; Confidential source, February 2023.

<sup>540</sup> Confidential source, February 2023; Confidential source, February 2023; Confidential source, February 2023.

<sup>541</sup> 'Life imprisonment with special provisions for odious crimes'

<sup>542</sup> The East African, *Solitary confinement to go in new Rwanda law proposals*, 20 October 2017; The New Times, *Rwanda: Parliament Expunges Solitary Confinement*, 3 April 2010.

<sup>543</sup> Rwanda Correctional Service, @RCS\_Rwanda on Twitter, 5 June 2021, [Rwanda Correctional Service on Twitter: 'in a shared room with several inmates when he complained of being kept in "solitary confinement", which does not exist in Rwanda's prisons. He is currently provided the same meals as the other inmates & has access to a medical doctor whenever required, as has always been the case.' / Twitter](#), accessed 22 February 2023.

<sup>544</sup> Human Rights Watch, *Rwanda: Wave of free speech prosecutions*, 16 March 2022.

<sup>545</sup> Human Rights Watch, *2022 World report. Events 2021, 2022*.

<sup>546</sup> Confidential source, June 2022.

<sup>547</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>548</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, pp 5-6.

prisons to investigate cases of torture. As the Commission had strong ties to the authorities, politically sensitive cases were often not acted on, according to this source.<sup>549</sup> According to other confidential sources, prisoners were unlikely to use the complaints procedure for fear of repercussions.<sup>550</sup> A confidential source stated that he had never heard of such an official complaint.<sup>551</sup> Another confidential source said that on the basis of its own knowledge and experience, whether the authorities took action against such behaviour depended on who the victim was and who the perpetrator was. If the perpetrator was acting on his own initiative and the victim had some influence, action might be taken.<sup>552</sup>

In the appeal against two former military officers, Colonel Tom Byabagamba and Brigadier General Frank Rusagara, the court did not investigate the complaints about torture and ill-treatment.<sup>553</sup> According to Aimable Karasira, in 2022, after complaining in court about ill-treatment and torture, he was beaten again and denied medical care as a punishment.<sup>554</sup>

There was said to be no possibility of submitting a complaint in the incommunicado prison system.<sup>555</sup>

### 4.3 Access for human rights organisations

Under the Transfer Law, Rwandan authorities allowed the detention conditions of extradited suspects and prisoners to be monitored by the International Committee of the Red Cross (ICRC) or by a monitoring organisation designated by the extraditing country.<sup>556</sup> For other detainees, Rwandan authorities restricted the conduct of observation by independent human rights organisations. For this reason, the ICRC decided in 2020 to end all observation activities in prisons in Rwanda.<sup>557</sup>

Journalists with a valid press card could visit prisoners in the designated visitors' room; they needed written permission from the commissioner of the RCS to do so. In some cases, the authorities restricted access to certain prisoners.<sup>558</sup>

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<sup>549</sup> Confidential source, April 2023.

<sup>550</sup> Confidential source, February 2023; Confidential source, February 2023.

<sup>551</sup> Confidential source, February 2023.

<sup>552</sup> Confidential source, February 2023.

<sup>553</sup> Human Rights Watch, *2021 World report. Events of 2020, 2021*, p 573.

<sup>554</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 4

<sup>555</sup> Confidential source, February 2023.

<sup>556</sup> No 02/2013/OL of 16/06/2013, Organic Law modifying and complementing Organic Law n° 51/2008 of 09/09/2008 determining the organisation, functioning and jurisdiction of courts as modified and complemented to date (Transfer Law), Article 26 Conditions of detention; US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 6.

<sup>557</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 7; Confidential source, June 2022; Confidential source, February 2023.

<sup>558</sup> US Department of State, *2021 country report on human rights practices*, Rwanda, 2022, p 7; Confidential source, February 2023; Confidential source, June 2022.



## 5 Appendices

### 5.1 Abbreviations

ABA	American Bar Association
DASSO	District Administration Security Support Organ
DRC	Democratic Republic of the Congo
ECtHR	European Court of Human Rights
FAR	Forces armées rwandaises
FDLR	Forces démocratiques pour la Libération du Rwanda
ICJ	International Commission of Jurists
ICTR	International Criminal Tribunal for Rwanda
ICRC	International Committee of the Red Cross
IRMCT	International Residual Mechanism for Criminal Tribunals
MAJ	Maison d'Accès à la Justice
MoU	Memorandum of Understanding
MSF	Médecins Sans Frontières
OCCRP	Organized Crime and Corruption Reporting Project
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention Against Torture
RBA	Rwanda Bar Association
RCS	Rwanda Correctional Service
RIB	Rwanda Investigations Bureau
RMC	Rwanda Media Commission
RNC	Rwanda National Congress
RPA	Rwanda Patriotic Army
RPD	Rwandese Platform for Democracy
RPF	Rwanda Patriotic Front
UNHCR	United Nations High Commissioner for Refugees
UK	United Kingdom

### 5.2 Glossary

Abunzi	Traditional mediation techniques
Divisionism	Term used for the propagation of divisions between population groups
Gacaca	Lay courts based on traditional practices, used in the 2000s for trying certain categories of genocide suspects, with the aim of eliminating large backlogs and thus achieving justice as accurately as possible
Interahamwe	Militias that carried out the genocide together with the Rwandan armed forces (FAR)

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