

# Human Rights Watch

## Discrimination, Detention, and Deportation: Immigration & Refugees

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### Annual reports

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#### Human Rights Watch World Report 1998

##### RWANDA

##### Human Rights Developments

In late 1996, the Rwandan government sent its soldiers across the border into eastern Democratic Republic of Congo(DRC) to empty camps that sheltered more than one million Rwandans. In the months that followed, Rwandan troops and their Congolese allies chased down camp residents who fled west across DRC, killing thousands of noncombatants as well as the soldiers and militia accompanying them. During 1997 the government of Rwanda launched other military operations within its own frontiers that killed thousands more unarmed civilians as it tried to put down a growing insurgency.

As in prior years, Rwandan authorities professed adherence to international human rights standards and claimed that civilian killings were the unintended consequence of operations justified by the needs of self-defense. They failed, however, to act effectively to punish violators or to halt abuses.

The insurgents, based largely in Rwanda after the camps were closed, also killed civilians by the hundreds as well as attacking government soldiers. With no publicly acknowledged political leadership, they escaped sanction by the international community, whose one effort to halt their violence-an arms embargo imposed in 1994-was poorly enforced.

Some 6,000 civilians were killed in the first nine months of 1997, the majority by the Rwandan Patriotic Army (RPA), the rest by insurgents or by assailants whose affiliation was unclear. This death toll represents nearly a four-fold increase over the previous year, when the U.N. Human Rights Field Operation in Rwanda (UNHRFOR) reported 1,575 persons killed in similar circumstances.

In late 1996, over a million Rwandans lived in exile in DRC after having fled the victory of the Rwandan Patriotic Front and the establishment of the current government in 1994. Although most people in the camps were noncombatants, tens of thousands of others were soldiers, militia, and civilian authorities responsible for the genocide of at last half a million Tutsi in Rwanda. Nourished by the international community and shielded by the massive civilian population which they manipulated for their own interests, the leaders of the former government and Rwandan Armed Forces (Forces Armes Rwandaises, FAR) used the camps to regroup, rearm and launch incursions into Rwanda. The international community preferred to pay the high cost of upkeep for the camps, one million dollars a day at one point, to the costs-financial, military and political-of separating genuine refugees from military and others who had no right to this status. Human rights and other humanitarian agencies called repeatedly for the removal of soldiers from the camps and the Rwandan government made clear that it would act if the international community did not. As the ex-FAR continued their incursions and preparations for full-scale invasion, Rwanda profited from the cover of an uprising by the Alliance of Democratic Forces for the Liberation of the Congo (ADFL) to join a campaign which both ousted long-term dictator Mobutu Sese Seko and smashed the camps. (See Democratic Republic of the Congo.)

Some 600,000 Rwandans then returned home, many of them glad to be free of the control of the former authorities. Others came back to Rwanda against their will, victims of a forcible repatriation forbidden by international refugee law. Still others fled west and northwest, some of them forced to accompany the retreating ex-FAR and militia. For the next six months, ADFL forces, often led by Rwandans, hunted down those in flight, killing civilians as well as armed elements and preventing humanitarian agencies from delivering the food, water and medicine needed to keep them alive. By July 1997, the United Nations High Commissioner for Refugees (UNHCR) had located some 286,000 Rwandans in DRC and adjacent countries and had assisted some 234,000 of these persons to return to Rwanda. An additional 213,000 remained missing, many of them presumably dead either from military attack or hunger and disease.

Several weeks after the massive return from DRC, more than 470,000 Rwandans came back from exile in Tanzania. The return of smaller numbers from Burundi during 1996 brought the total of returnees to more than 1,300,000.

The government of Rwanda had always urged those abroad to come home, preferring to contain its adversaries within the country rather than fight them across borders. Authorities ensured a generally orderly and prompt dispersal of returnees to their home communes, at first postponing arrests of persons who could be accused of genocide and keeping local populations calm. In the course of the year, however, more than two hundred returnees were killed, including some fifty ex-FAR officers and their families. In most of these case, no assailants were apprehended. Local authorities in Mukingo commune, Ruhengeri prefecture, reported that some 500 returnees who were

being held for questioning were taken away by truck during the middle of the night of April 29 by government soldiers and have not been seen since. In addition, two ex-FAR officers returned from abroad were said to have committed suicide while imprisoned at a brigade lockup in Rubavu commune.

Beginning in January, insurgents attacked genocide survivors and other Tutsi who had returned to Rwanda after the 1994 Rwandan Patriotic Front (RPF) victory. In raids on taxis and schools in February, March and April, assailants targeted only Tutsi and spared Hutu, indicating an intent to continue the 1994 genocide and to eliminate witnesses who could testify about the earlier slaughter. In August, insurgents killed seventeen genocide survivors and 131 Congolese refugees, most of them ethnic Tutsi, who were housed in a camp in northwestern Rwanda. In a mid-October attack on a similar camp in Mutura commune, insurgents killed at least thirty-seven persons and wounded many more. At the end of October some 2,000 survivors of the genocide and other Tutsi sought shelter in the town of Ruhengeri, leaving homes in rural areas where they feared attacks by rebels.

The insurgents, who gathered in larger groups as the year progressed, attacked more important targets, such as government installations, and fought more substantial skirmishes against the army beginning in May, primarily in the northwestern part of the country. Although authorities asserted repeatedly that the insurgents had been beaten, the rebels were able to lay siege to the important town of Gisenyi for seven hours in early October. The government soldiers had to bring reinforcements and artillery from Ruhengeri in order to defeat some 1,000 insurgents who also shot mortars into the town. Insurgents and government soldiers clashed again in Ndusu, Gatonde, and Nyarutovu communes in Ruhengeri later in October. Most military action was concentrated in the northwest, but armed men, apparently insurgents, carried out several attacks in the northeast, including one in Buyoya in early September where they killed a local official, his wife, six children and two guards, in the western prefecture of Kibuye, and in the central prefectures of Gitarama and Gikongoro.

The government responded to attacks with an excessive and indiscriminate use of force, by October killing an estimated 3,500 unarmed civilians in the course of military operations. These operations generally followed attacks on government soldiers, Tutsi civilians, and local government officials or the reported presence of insurgents in a community. Soldiers and government officials also killed hundreds of civilians in circumstances other than military operations. In August, soldiers reportedly executed some 150 detainees at the communal jails in Kanama and Rubavu in northwestern Rwanda. In the southern prefecture of Butare, two soldiers killed eleven detainees in Muyira commune in January and an RPA guard killed another eleven at Maraba commune in May. A prison guard in the commune of Rutongo killed eight detainees in early August. On January 24, at a public meeting in Karengera commune, Cyangugu prefecture, soldiers carried out the extrajudicial execution of two persons suspected of murder, repeating violations from the previous month when four persons were shot dead by soldiers in the presence of civilian authorities in Satinsyi commune, Gisenyi prefecture, and Mubuga commune, Gikongoro prefecture.

Soldiers and administrative officials have confined hundreds of civilians in military camps or facilities under military control after having arrested them in cordon-and-search operations in areas of conflict and in urban centers like the capital. U.N. human rights monitors and representatives of the International Committee of the Red Cross (ICRC) were ordinarily denied access to such facilities, making it impossible to know how many persons were held or the conditions of detention.

After two particularly egregious cases of military abuses, the killing of at least 137 civilians in Kigombe commune in early March and the slaughter of hundreds at Mahoko market in Gisenyi prefecture in August, authorities reportedly opened investigations and arrested the local commanding officers-in each case a major-and other soldiers. Some 1,300 soldiers faced charges in the military justice system, but more than half of these were ex-FAR accused of genocide or crimes against the current government. Military courts tried 114 cases, but only two involving human rights abuses attracted public notice. In December 1996, Col. Fred Ibingira, the commander of government troops who massacred some 2,000 displaced persons at the Kibeho camp in April 1995, was tried and acquitted of charges of murder and the use of arms without orders. He was found guilty of failing "to prevent criminal acts through immediate action" and was sentenced to eighteen months imprisonment, a period which he was said to have already spent in pre-trial custody, and to a fine of about U.S. \$30. Lieutenant Colonel Murokore, Ibingira's immediate subordinate, was also charged in 1995, but by 1997 he was freed, apparently without trial, and the military prosecutor's office said that it expected no further prosecutions related to the Kibeho killings. (Both Ibingira and Murokore reportedly fought in the DRC operation.) In a judgment in September remarkably like that of the Ibingira case, a military court acquitted several soldiers of serious charges related to the killing of 110 civilians at Kanama in September 1995 and found them guilty of failing to come to the assistance of people in danger. They were sentenced to twenty-eight months in prison, of which they were said already to have served twenty-four, and were fined about \$30. In both trials, the prosecutors presented weak cases, tapping very little of the abundant evidence available. In the second case, they had taken most of the testimony in the weeks immediately preceding the trial, although the events had taken place nearly two years before.

Gen. Paul Kagame, the effective head of government, repeatedly stressed the importance of political over military solutions to problems, but the government experienced growing difficulty in finding political solutions. Illustrative of this development was the apparently forced resignation of Col. Alexis Kanyarengwe from the post of minister of the interior following his public protests against killings by government soldiers in March in his home region of Ruhengeri. Prior to the killings, Kanyarengwe had helped assure support of the government in Ruhengeri. The government removed the prefect of Ruhengeri, apparently because he too had spoken out against military excesses, and replaced him with Boniface Rucagu, whom authorities had previously accused of having led the genocide. Arrested several times but never brought to trial, Rucagu was apparently thought to be the only person who might bring order to the northwestern prefecture. Members of the National Assembly, particularly survivors of the genocide, protested the choice bitterly, but to no avail.

Among the civilians slain by October 1997 were 108 administrative and nineteen judicial officials. Insurgents were reportedly responsible for most of these crimes as they sought to punish supporters of the government. In a few cases, army or other state officials were accused of the killings. Whatever the source or sources of the violence, it discouraged moderates from accepting official duties.

A journalist critical of the government, Appolos Hakizimana, was assassinated in April. His associate, Amiel Nkuliza, also critical of the government, was threatened with death immediately thereafter and was arrested two weeks later on charges of having incited ethnic hatred.

In a number of cases, unidentified assailants killed Rwandan employees of international agencies, such as UNICEF, UNHCR, and the

World Food Program. Government soldiers in January shot at two employees of the nongovernmental organization (NGO) Concern, killing one of them. Many other employees of humanitarian agencies have been threatened. In other cases, the assailants murdered eight foreign residents by mid-year. On January 18, armed men, some of them in military uniform, attacked three buildings in the town of Ruhengeri that were occupied by foreign staff of Save the Children, Medecins sans Frontieres, and Doctors of the World. Driven away from two of the buildings, assailants gained entry to the third, where they murdered three Spanish medical workers and seriously injured an American, who later was obliged to have his injured leg amputated. The government soldiers in the immediate vicinity failed to intervene but later arrested the guard of the premises who had witnessed the whole attack; an RPA soldier shot him the next day, supposedly because he was trying to escape custody. In another case, insurgents killed a Belgian nun when they attacked the school she directed in Satinsyi commune, Gisenyi prefecture, on April 28 and were reportedly also responsible for murdering a Chinese engineer in Kivumu commune, Kibuye prefecture on June 24. A teacher, reportedly once an RPA soldier, shot and killed a Canadian priest during a mass in Kinigi commune, Ruhengeri prefecture on February 2. The attacks on foreign nationals, including attacks on human rights monitors described below, caused many NGOs to withdraw their staff from insecure areas in the west and northwest. This reduced the number of outside witnesses and diminished the amount of information available about incidents of violence.

Against the backdrop of increasing violence by both the government and the insurgents, the beginning of trials for genocide offered one sign of hope. With considerable foreign assistance in the training of personnel, the judicial system was operating with 910 judges, far more than the number in service before the genocide. By mid-year, courts had handed down judgments in 142 cases, in which sixty-one persons were found guilty and condemned to death, eight were acquitted, and the rest found guilty and sentenced to varying prison terms up to life in prison. As of October, five of those sentenced to death had appealed and seen their appeals rejected, but none of the condemned had been executed. Following the procedure set by a 1996 law on the genocide, twenty-five persons pleaded guilty and made detailed confessions in order to be eligible for a lighter penalty. In September, the first decision was handed down concerning one of some 2,000 minors facing charges of genocide. The accused, found guilty of crimes committed when he was fourteen years old, was given a reduced sentence of three years because he had confessed.

The first trials failed to meet international standards in several respects, most importantly because the accused had no legal representation. The government of Rwanda acknowledged the right of the accused to a defense, but declared itself unable to pay for legal assistance. A small NGO, Avocats sans Frontieres, arranged for attorneys from other African and European countries to represent some defendants, but lacked resources to meet the overwhelming demand. In addition, their staff did not provide assistance in insecure areas. During the year, the conduct of trials in a number of courts improved: prosecutors called witnesses to court more often, instead of merely presenting a written summary of their testimony; the accused was given more time to review the charges; and judges more often granted reasonable requests for adjournments. These improvements, while significant, did not take place in all courts, nor did they alleviate the persistent problem of threats against defense witnesses, lawyers, and judges.

In August forty-four lawyers were sworn in to the newly established bar, but almost all of them refused to defend persons accused of genocide. One of the three Rwandan lawyers who agreed to do so, Innocent Murengezi, "disappeared" when he left a court building at the end of January. Although the minister of justice and U.N. human rights monitors made efforts to trace him, he had not been located eight months later and was presumed dead.

With the massive return of Rwandans from abroad, military and administrative officials once more began making arrests without legal authority to do so and without following legal procedure, thus reviving practices that had diminished last year with the improved functioning of the judicial system. They also began once more holding detainees in irregular places of detention in various sectors of the communes. Near the end of 1997, an estimated 40 percent of those detained in prisons and 80 percent of those detained in other facilities had no files establishing charges against them. This made it appear impossible for authorities to comply with provisions of a 1996 law setting the end of 1997 as the deadline for having appropriate warrants drawn and preliminary appearances before judges for all those arrested on or before September 8, 1996. By October, more than 120,000 persons were held in inhumane conditions, crammed into prisons and communal jails meant to house a fraction of that number. In the early part of the year, prisoners in several central prisons received no or very little food for up to ten days, supposedly because of lack of firewood for cooking. Due to insecurity in some regions, representatives of the ICRC were unable to visit an estimated 30 percent of jails in communes and police brigades.

The reintegration of the returnees has exacerbated social and economic problems chronic to the heavily overpopulated, agricultural country. Those who fled Rwanda in 1994 have returned to find their homes, fields, businesses and jobs in the hands of others, many of them persons who followed the RPF back to Rwanda from their own years of exile. The government has guaranteed the property rights of those who fled in 1994, but has implemented the promise in relatively few cases. The Ministry of Defense has confiscated properties of some of those accused but not yet tried on charges of genocide and has decreed that tenants occupying those properties must work out rental agreements with its officials. In April, the government announced that returnees who wanted to seek employment or to attend school would first have to pass through a one-month program of re-education. Those already employed were told to leave their jobs until they had undergone this process and employers were warned not to hire any returnees who had not completed re-education. By August several re-education camps had begun operating, but they could accommodate only a very small number of those who must complete the program before beginning work or study.

### **The Right to Monitor**

The five Rwandan human rights associations suffered enormous losses during the genocide. In attempting to resume work, activists who have criticized the authorities or urged the presumption of innocence for those accused of genocide were harassed and threatened. Virtually all Rwandans-including lawyers and judicial personnel-ordinarily refer to those accused of genocide as the "presumed guilty." In February 1997, Alphonse-Marie Nkubito, the founder of the first Rwandan human rights organization, the Rwandan Association for the Defense of Human Rights (Association rwandaise pour la defense des droits de l'homme, ARDHO), died suddenly. Authorities failed to investigate allegations that he had been murdered, leaving suspicions and fear among his colleagues and others. Soon after Nkubito's death, Abbe Andre Sibomana, president of the Rwandan Association for the Defense of Human Rights and Public Liberties (Association rwandaise pour la dfense des droits de la personne et des liberts publiques, ADL) and Rosalie Mukarukaka, secretary general of ADL, were detained and interrogated by the police. Emmanuel Hitimana, a researcher for ARDHO was also detained for seven days in a communal jail and was warned to stop doing human rights work. Murengezi, who "disappeared" in January, was also a human rights activist.

Rwandan human rights researchers who tried to investigate the killing of detainees at the Maraba communal jail in May (see above) were not permitted to view the bodies or to interview the wounded and other detainees. Military authorities excluded Rwandan activists seeking to investigate RPA abuses from areas of the northwest, declaring the communities to be areas of military operations.

Under these pressures, three of the five human rights groups gave up rigorous monitoring of government abuses and have devoted themselves to less dangerous tasks, like human rights education.

In early February, five staff members of the United Nations Human Rights Field Office for Rwanda (UNHRFOR) were murdered in southwestern Rwanda by assailants who ambushed their vehicle. Three of the five were Rwandan, one was British, and one was Cambodian. Rwandan authorities attributed the attack to a band of insurgents, several of whom they said they had killed in an encounter soon after. Several weeks before, two Rwandan and two foreign UNHRFOR staff members were beaten and robbed and their vehicle burned, apparently by insurgents. Following the February killings, all staff were recalled to the capital for the rest of the month. When the U.N. field team resumed operations, staff could not regularly monitor the areas of greatest insecurity, the very regions where they were most needed.

### **The Role of the International Community**

As in 1996, the international community continued to offer political, economic and military support to Rwanda. Governments were generally ready to overlook or to excuse Rwandan abuses as a cost of rebuilding a nation shattered by genocide or to accept without challenge official denials of responsibility when the identity of the perpetrators was unknown. International actors rarely criticized abuses, whether victims were Rwandans or even citizens of their own nations. Condemnation of the murder of the U.N. human rights monitors was so muted as to dishearten their colleagues. Foreign diplomats in Kigali accepted the show of justice in the Ibiringira court martial without comment, fearing that too much attention to the case would be "counterproductive," according to one European diplomat.

South Africa, which had interrupted arms sales to the previous government, resumed selling weapons to Rwanda, apparently unconvinced by human rights groups, canvassed by the National Conventional Arms Control Committee, that had argued against this. The African National Congress (ANC) issued a statement concerning the weapons sales commending the Rwandan government for its "positive role in bringing about peace in the region as a whole and their country in particular." The South African endorsement was only one indication of the widespread support enjoyed by the Rwandan government among African leaders ready to overlook its human rights abuses in light of its political and military successes.

### **United Nations**

According to the Rwandan government, the U.N. lost the moral authority to condemn human rights abuses in Rwanda when it failed to intervene in the genocide in 1994. Exploiting this premise and the justification that current killings resulted from a need to defend against insurgents, Rwanda persuaded the U.N. Commission on Human Rights to end the mandate of the special rapporteur on Rwanda, replacing him with a "special representative" who lacked the authority to report on alleged abuses and was limited to advising on how to improve the human rights situation.

Using similar arguments, Rwanda began a campaign to end monitoring by UNHRFOR. Reports by the field operation, regularly submitted to Rwandan authorities before publication, rarely criticized the government firmly. Like the local organizations, UNHRFOR devoted considerable resources to less risky human rights activities, like promoting human rights and assisting in development of the judiciary. When UNHRFOR did produce two exceptionally strong reports in late July, the government stepped up its efforts to have the monitoring operation ended. Diplomats in Kigali, reflecting the policy of their governments, provided little political support to UNHRFOR.

The International Criminal Tribunal for Rwanda (ICTR), established by the U.N. Security Council in 1994 to prosecute those responsible for the genocide and other violations of international humanitarian law, improved its performance markedly in 1997 after the replacement in February of the registrar and deputy prosecutor. Under the new leadership, tribunal staff in general functioned more efficiently and the prosecutor began grouping several accused persons for a single trial, a strategy which promised to expedite the process. The opening of a second courtroom made it possible to try two cases simultaneously, an important step since the ICTR already had twenty-one indicted persons in custody. In October, the first three trials were nearing conclusion and the prosecution hoped for judges to begin their deliberations by the end of the year.

The tribunal, now adequately funded by the international community, still suffered severe shortages of qualified personnel, a lack exacerbated by the end of a long-standing practice that allowed member states to second personnel to U.N. agencies. At mid-year, more than half the posts of investigator were vacant.

In 1997, Cameroon joined the list of states (Belgium, Kenya, Switzerland, Zambia) that had assisted the tribunal in arresting suspects, delivering four accused persons to the ICTR, including Col. Theoneste Bagosora, one of the top leaders during the genocide. Kenya also helped the ICTR once again, this time with the arrest of the former prime minister of Rwanda and seven other suspects, who were subsequently handed over to the custody of the tribunal. One accused person is imprisoned in the U.S., awaiting transfer to the ICTR.

### **European Union**

The European Union, particularly satisfied to have most of the refugees back home, provided a fresh infusion of emergency funds, some thirty-five million ECU to assist in their resettlement. In terms of development assistance, the E.U. continued to contribute particularly to the judicial and police systems, giving some four and a half million ECU. Italy provided some U.S.\$10 million for the re-education camps and France joined the ranks of international donors to the current government for the first time with some \$2.5 million worth of assistance in education and health. Austria cancelled a Rwandan debt of \$17 million. As reports increased of killings of civilians by RPA soldiers, critics of continued unconditional assistance to the Rwandan government became more vociferous in Belgium, the Netherlands, and Ireland, but their efforts had produced no restrictions in aid by October. Similarly, an E.U. discussion of an arms embargo on the entire Great Lakes ended with no action.

## United States

The U.S. emerged this year as the most important foreign supporter of the Rwandan government, a role symbolized by U.S. military assistance. In itself a relatively small program, the military training attracted much attention because of human rights violations by RPA soldiers both in Rwanda and in DRC. At a congressional hearing in December 1996, Assistant Secretary of Defense Vincent Kern asserted that the U.S. provided the "softer, kinder, gentler" kind of military training, with emphasis on human rights issues, civil-military relations, and leadership training. In August, after further congressional prodding, the Department of Defense reported having provided one course that taught combat skills as marksmanship in the months just before the DRC operation. U.S. embassy staff in Kigali were reluctant to acknowledge abuses by government forces, although they maintained that they raised such issues privately with Rwandan authorities. In one UNHCRFOR briefing about RPA killings of civilians, the U.S. ambassador challenged the report so vigorously that "he looked like the Rwandan government lawyer," according to one observer present at the meeting. After the RPA arrested soldiers for the 1997 killings in Kanama, the U.S. ambassador publicly commended military authorities for "hold[ing] the army accountable," but he said nothing about the judgment that same day that acquitted soldiers charged with murdering 110 civilians at Kanama in 1995. (See above.)

Like E.U. nations, the U.S. provided substantial assistance, some \$28 million, for refugee resettlement and more than one million dollars for rebuilding courts and training communal and national police.

As reports increased of abuses by government soldiers, Washington policymakers debated what course to follow in Rwanda but by late in the year, there had been no apparent change in policy.

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