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485 Fifth Avenue, New York, NY 10017-6104 TEL (212) 972-8400 FAX (212) 972-0905 E-mail: hrwatchnyc@igc.apc.org
 1322 K Street, NW, #910, Washington, DC 20005 TEL (202) 371-6592 FAX (202) 371-0124 E-mail: hrwatchdc@igc.apc.org
 33 Islington High Street, N1 9LH London, UK TEL (71) 713-1995 FAX: (71) 713-1800 E-mail: hrwatchuk@gn.apc.org
 13 rue Van Campenhout, 1040 Brussels, Belgium TEL (3) 732-2009 FAX: (3) 732-0471

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THE AFTERMATH OF GENOCIDE IN RWANDA:

Absence of Prosecution, Continued Killings

September 1994

Devastated by a genocide that cost the lives of at least half a million Tutsi, Rwanda continues to suffer from the aftermath of these catastrophic killings. According to Human Rights Watch/Africa, whose representative just completed a ten day mission to Rwanda:

- The present government lacks the resources to even begin prosecuting the thousands accused of massacres.
- The international community, despite its infinitely greater resources, has done little to gather the evidence necessary for judicial proceedings.
- With the prospect of actual trials still distant, persons accused, rightly or wrongly, of participation in the massacres are being killed or disappearing from their communities, frequently at the hands of government soldiers. A small number of those taken by soldiers have been handed over to civilian authorities for trial but many others are presumed dead.
- The government has denounced killings for vengeance, but has not acted effectively to stop them.
- Soldiers of the Rwandan Patriot Front also killed numerous civilians during the war against the then government of Rwanda, thus violating the Geneva conventions. Sixty four soldiers are now under arrest, but not all are charged with killing civilians.

PROSECUTION OF THOSE GUILTY OF GENOCIDE

The new government of Rwanda has informed the Secretary General of the United Nations that it will agree to prosecution of some of those accused of genocide by an International Tribunal. It has also announced that it will itself prosecute all others accused of killings, even if the number runs to the thousands.

Rwandan authorities readily admit, however, that they lack the resources to carry out this large-scale undertaking. The Minister of Justice, Alphonse-Marie Nkubito, has at most forty judges and prosecutors at his disposal and estimates that he will need at least eighty to carry out trials throughout the country. He has virtually no police investigators to amass the evidence needed for trials. His ministry has no vehicles, communications equipment, or even basic office supplies to carry out investigations. He has been running the ministry largely from his hotel room.

Approximately fifteen hundred persons accused of killings are now housed in the central prison of Kigali, but the single prosecutor, with a staff of five, can hardly begin to examine their cases. The Ministry of Justice has no funds to provide food and supplies for the prisoners and has had to arrange for the World Food Program to feed them. At the time of a visit to the prison by Human Rights Watch, the supply of beans had been exhausted and only corn meal was available to feed the prisoners. Hundreds of other accused persons are still in military camps awaiting transfer to prison. The ministry hopes to open the prison at Gitarama, but is unsure that it will have the resources to do so.

Civilian administration has been established in about one half of the country, with most lower level local officials (conseillers, responsables) elected by the population and burgomasters appointed by the local military commander. Even in communities with civilian administration, the army continues to be responsible for keeping order. A civilian police force has not yet been established.

THE INTERNATIONAL TRIBUNAL

The international community, shamefully absent during the genocide itself, has insisted that the guilty must be brought to justice. To this end, the United Nations Security Council established a Commission of Experts to examine the case and to advise on the desirability of further proceedings through an international tribunal. The Commission visited Rwanda in early September, but does not plan to issue its interim report before the end of the month. The establishment of an international tribunal, with the necessary prosecutorial staff, would take place some time after that date with actual trials still further in the future. Human Rights Watch/Africa strongly supports expanding the International Tribunal that is trying war crimes in the former Yugoslavia to deal with the case of genocide in Rwanda. Adding an additional chamber and separate prosecutor to the existing Tribunal would require less time and resources than creating a completely new court. At least one member of the Commission of Experts has already expressed the opinion, however, that a new and autonomous tribunal is necessary. Should his opinion prevail, the start of the trials would be further delayed.

The United Nations Human Rights Commission has also named a Special Rapporteur to investigate the Rwandan massacres. His representative in Rwanda is charged with gathering evidence about the genocide, but is severely hampered by inadequate resources. She lacks the basic necessities for effective research, such as a vehicle for travel outside the capital. Human Rights Watch/Africa was able to locate tapes of broadcasts by the Radio Mille Collines, a private radio station that incited people to genocide. When an offer was made to the United Nations representative to make copies of these broadcasts for use in eventual prosecution of charges of genocide, she was unable to come up with the blank cassettes needed to make the copies. She had requested such cassettes some weeks ago, but was told that the request to Geneva would have to be processed through New York. It has not yet resulted in the delivery of the needed cassettes. The cassettes could be bought locally at a cost of \$2.00 each.

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Struggles within and between various branches of the United Nations bureaucracy seem to be responsible for some of the delays that are hindering the investigation of the genocide.

Among signatories to the Convention for the Prevention and Suppression of Genocide, France is one of the few to have incorporated adequate provisions against genocide in its domestic penal code. Belgium has made provisions for charges of crimes against humanity in its laws. Despite having the legal authority to try those accused of these crimes regardless of where committed, neither France nor Belgium has moved to arrest persons who are presumably guilty and who are currently residing within their national boundaries.

KILLINGS, ARRESTS AND DISAPPEARANCES OF THE ACCUSED

In the absence of any effective movement toward orderly prosecutions by either national or international authorities, soldiers of the Rwandan Patriotic Front and victims of the genocide have been killing, arresting and causing to disappear persons who are accused, rightly or wrongly, of having participated in the massacres. In communities in the northwest, throughout the center and in the south and east of the country, Human Rights Watch collected testimony about these killings and disappearances. The earliest date from the first arrival of the RPF in the region and the most recent took place on September 2, the final day when information was gathered.

Among the more dramatic cases were the following:

- At Kivumu parish, north of Gitarama, the priests were evacuated when RPF soldiers arrived to make camp on the grounds. When the priests returned at the end of July, they found a considerable number of bodies. Apparently the victims, whose arms had been bound, had been assembled for interrogation by the soldiers and had then been beaten to death. The priests organized the burial of the bodies in three large mass graves which were located and photographed by Human Rights Watch/Africa. *and*

- On July 13, in the southern town of Butare, RPF soldiers gathered several hundred displaced persons from Ntyazo, Ngenda, and Vumbi communes and told them they were going to be transported either to the stadium in Butare or back to their own homes. Instead they were confined at the Groupe Scolaire, a complex of buildings in the town. Women were separated from the men, who were interrogated. Some of the women were eventually released, but most or all of the men have not been heard from since. The men were detained in the veterinary school, which has since been guarded by soldiers. Journalists and the representative of the United Nations Special Rapporteur have sought to visit the site but have been refused. Witnesses related that for a period of two days there were sounds of people being killed in the woods next to the school. *and*

- On July 22, hundreds of displaced persons at the parish of Save were

gathered for a final meeting before they were dispersed to their homes. The soldiers running the meeting asked families of those killed to point out the presumed killers. The two hundred or so persons indicated were taken away for interrogation. A dozen or so of these people were later released. Some who were freed, including one man named Mugiraneza, were taken away a few days later by soldiers.

The bourgomaster (local government official) of Shyanda commune, a man named Theophile, was taken away in early August, as were five people from the family of Pedro Niyitegaka.

- At the commune of Rango, south of Butare, RPF soldiers called a meeting on Friday, July 8 of several hundred people displaced from the communes of Gashore, Ngoma and Runyinya. People with certain given names, such as Emmanuel or Charles, were asked to step forward. They were taken and locked up that night in the Rango health center and have not been seen since. When one family member inquired of soldiers about where her relative might be, she was told that he had been taken for interrogation and that she did not need to provide food for him. In the past, families ordinarily provided food for relatives who were detained at local jails.

At a subsequent meeting at Rango on July 11, survivors of the massacres were asked by soldiers to identify presumed killers. Those who were pointed out were taken away in vehicles and have not been seen since.

In the same region, eight persons were taken away by soldiers on August 24. They were men named Habiyakare; Noheli Nduwayezu; Venuste Ntakirutimana; Anniyasi; Cyriaque; Martin Rwandegye; Lambert and Pascal.

- In late July or early August, in the commune of Kayenzi sector Cubi, cell Ntwale, widows of Tutsi men killed during the genocide asked RPF soldiers to arrest four men who they said were guilty of the killings. In the arrest attempt the soldiers killed one man, named Hitimana, who was trying to get away. Another, Azarias Mukekeyimana, subsequently escaped, but the other two, Vedaste Munyakinami and Ntahonderera, have not been seen since. The RPF returned two days later and severely beat the elderly father of Mukekeyimana and Munyakinami while questioning him about the whereabouts of one of his sons.

At about the same date, another man named Ruhitamu was also taken from Ntwale, commune Kayenzi. On August 16, Didace, a hospital worker at Kigali and the son of Atanasi Ugirawabo, was arrested at the barrier near the Kayenzi military camp and has not been heard from since.

- An estimated 20 persons have disappeared from Munyuzwe parish in the commune of Masango. They include Wisengimana of Kirwa and the trader Sylvan Bakondakwita and his son Laurent. The latter may have been accused by commercial rivals.

- After the RPF established their camp at Kabgayi, the large Catholic bishopric in central Rwanda, six bodies of persons who had been bound were found in the adjacent woods.

- Damien, who worked at the Nursing School at Kabgayi, was reportedly killed by the RPF at his home at Mpanda, in the commune of Mukingi.

- Chantal, a woman married to a man from Burundi, her children and visitors at her home were killed in the Gahogo sector of the commune of Nyamabuye in late July or early August.

Other disappearances have been recorded in the communes of Ruhengeri town, Taba, Kigoma, and Runyinya, and in several communes of Kibungo prefecture. In the most recent case recorded, a man was taken by soldiers from the road in front of the Groupe Scolaire in Butare just after noon on Friday, September 2. In the absence of any official notification to relatives that persons taken away have in fact been arrested, their families assume them to be dead. In such cases, Human Rights Watch/Africa counts them as victims who have disappeared.

In some cases of killings or disappearances, the RPF appears to have targeted lineages or smaller family groups, such as the Abakomba lineage in the region of Butare.

According to Justice Minister Nkubito, some of the persons listed as disappeared are currently in prison or are still being detained in military camps. Since there is as yet no reliable list of the prisoners and detained persons, it is impossible to know how many of those who have been taken away by soldiers are still alive and in the hands of the authorities. It is the responsibility of the public authorities to prepare immediately a listing of all those detained and to make the list public.

THE RPF KILLING OF CIVILIANS DURING THE WAR

Refugees who fled the advance of RPF troops south and west through Rwanda often recounted that soldiers killed large numbers of civilians when they entered their communities. Some of these accounts were clearly rumor or deliberate propaganda spread by the former Rwandan government. Other accounts have subsequently been substantiated. Refugees reported, for example, that civilians were gathered in a mosque in the region of Bugesera and were then executed by grenade. Soldiers attempt to keep outsiders from approaching the mosque, but one visitor was able to note damage to the building that appeared to result from grenade attack.

In another incident, a credible witness has reported that RPF soldiers killed a large number of civilians when they arrived at Kayove, in northwestern Rwanda.

Human Rights Watch/Africa investigated one incident that took place in the

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commune of Mukingi, sector Rugogwe, cell Nyagakombe on June 19. The site is now called Kwi cumi n'icyenda, or nineteen, in kinyarwanda. A number of witnesses relate that RPF forces arrived from the direction of the hill Sarubeshi and assembled both local people and refugees who were in neighboring camps. They explained that they wanted to talk about transporting people to Rwabusoro in Bugesera. The soldiers first killed a woman named Sara and a man named Bihibindi. Then half an hour later, they opened fire on the crowd of hundreds of people gathered in a field. Gunfire continued throughout the day. Those who survived the hail of bullets were killed by hammers or hoes. The soldiers killed others on June 20 and 21, when they attacked refugees who had taken shelter in the cabaret of a man named Laurent. People were killed without regard to age, sex or ethnic group. Among the local Tutsi killed was a woman identified as the daughter-in-law of a man named Gahizi. Victims of the attack included the wife, three children and daughter-in-law of Karenaningo and ten people of the family of Rwabigwi.

The bodies of the victims were hastily buried by survivors in three mass graves which were located and photographed by Human Rights Watch/Africa. One shallow grave measured about one meter by twenty meters and held approximately 70 victims, mostly women and children. Two others, smaller in surface, were said to be much deeper because they had been holes previously excavated for sand or clay. It is likely that these graves held hundreds of victims. In addition, the body of a baby was visible floating in the water of an adjacent stream.

A number of victims had been shot apparently when fleeing. Their bodies were located on either side of the road that stretches up the hill from the original killing field. The Human Rights Watch/Africa representative counted and photographed the remains of about twenty people in these scattered sites. Approximately half of them were either women or children.

Witnesses had no explanation for the RPF attack but they did relate that many Tutsi had been killed in the area before the RPF arrival.

On August 15, the RPF soldiers came back to take away a number of people, including Kayitare Theoneste, his five children, his wife, three of his brothers and three of his sisters; Rwamasasa Sekumonyo, his wife and five children; Barima; Gakwaya, son of Bwanakweri; Nubaha; Come; Fabien; Schadrack and Barihima, all resident of the sector Rugogwe.

THE RESPONSE OF THE RWANDAN GOVERNMENT

Leading authorities, including General Paul Kagame, Prime Minister Faustin Twagiramungu and Justice Minister Nkubito admit that RPF soldiers have been guilty of killing civilians and insist that they are doing their best to halt these reprisals. On August 25, General Kagame and Prime Minister Twagiramungu made speeches in Ruhengeri admonishing the population not to appeal to soldiers to kill or otherwise abuse people whom they presume to be guilty. Authorities assert that enormous pressure for reprisals will continue so long as no orderly proceedings

exist to deal with accusations against presumed killers. In a speech to representatives of the European Economic Community, President Pasteur Bizimungu appealed to other nations to send judges, magistrates and investigators to help speed these proceedings.

Given the tight discipline which apparently exists within the Rwandan Patriotic Army, Human Rights Watch/Africa would expect any strict order to halt reprisals to be immediately executed. In fact, it was able to document only two cases of attempts to control abuses. In the case described above that took place in Ntwale cell, Cumbi sector, Kayenzi commune, one soldier apparently told the others that party membership in the MRND, the party of former President Habyarimana that was involved in the genocide, was not sufficient grounds for arresting someone. He wanted to search the house of the accused person to see if there was any evidence to substantiate the charges against him. The other soldiers apparently overruled him and the suspect was taken away. In a second case that happened in mid-August, a man named Athanasi of the commune Musango was arrested near the Butare airport, tied up and beaten by soldiers. A Major Karenzi intervened and had the man freed. The Major apparently refused Athanasi's request that the soldiers involved be punished and told Athanasi that in case of any future problems, he should tell soldiers that Major Karenzi was aware of his case.

According to authorities, sixty-four soldiers are under arrest, some of them charged with the killing of civilians. This number, originally reported nearly a month ago, has not increased since, although more killings are being reported every day. Human Rights Watch/Africa was told that those facing the most serious charges were detained at Kibungo prison. The Human Rights Watch/Africa representative was permitted to visit the prison to interview the detained soldiers. None was an officer. One said he was arrested after he had killed a member of the Interahamwe militia who had just thrown a grenade at him. Another recounted a similar story.

In an interview the next day, General Kagame told Human Rights Watch/Africa that a Major Sam Bigabiro was under arrest for having killed civilians. He indicated that he thought Major Bigabiro may have been in command at Mukingi commune where a large number of civilians had been killed. His staff said that Major Bigabiro was detained at Kibungo prison but they could not explain why he had not been present the previous day when other soldiers had been made available for interview by Human Rights Watch/Africa.

Military authorities have also said that two soldiers have been tried in courts martial and subsequently executed. Details of their crimes and the kinds of proceedings involved have not been made public.

PROPERTY RIGHTS

Soldiers have taken over residential and commercial property in Kigali, Butare and other urban locations. In some cases they have occupied the property

themselves, in others they have allocated the holdings to persons coming from Burundi, Zaire or Uganda. Authorities have announced that the original owners will be automatically reinstated in their property when they return but that they should give the temporary occupants a few days to find new lodgings. In some cases the original owners have been able to reclaim their dwellings, but only to find that all their furnishings have been removed. In other cases, those attempting to reclaim their property have been driven away by crowds accusing them of being genocidal killers or have met actual violence at the hands of the temporary occupants.

INSECURITY AND FEAR

Rwandan authorities report that soldiers of the former Rwandan government army and members of the militia that supported that government have made incursions across the southern border to kill people. One such group apparently infiltrated into Ruhengeri and killed several people, wounded two children and took away several others on August 24 or 25. In some cases, such as one in the western region of Kibuye in mid-August, infiltrators aiming to destabilise the new government have passed themselves off as members of the RPF army. In early August, armed men in military uniform attacked refugees returning from Zaire at the hill Ndiza, northern Ruhengeri. The victims blamed the incident on the RPF but a Zaireian lawyer known to be a reliable human rights investigator questioned a number of witnesses and concluded that the perpetrators were in fact militia members who had passed themselves off as members of the RPF.

Casual rumor and deliberate propaganda both cloud and exaggerate accounts of attacks and disappearances, raising the level of fear among the population.

On one level, authorities have shown great openness to outsiders and have even expressed their gratitude at being informed of reported exactions. But, out on the hills, where the occupation by soldiers continues to be dense, many people are afraid to talk about abuses. When the Human Rights Watch/Africa representative was investigating the killing of civilians at Kwi cumi n'icyenda (see above), she was stopped and questioned by a RPF officer who was accompanied by about twenty-five soldiers in full battle dress and armed with rocket-propelled grenade launchers as well as machine guns. They arrived very fast in two vehicles at the location, which was some distance from the main highway, along a little-used dirt road. They wanted to know with whom she had been speaking in the area. One Rwandan who talked at length on a public street with a foreign journalist was approached on the spot by a RPF officer who reproached him for talking so long with an outsider.

THE NEED FOR MONITORS

The United Nations Human Rights Commission recommended that a number of monitors be sent to keep track of the human rights situation in Rwanda. Rwandan authorities agreed to their presence in the country. The representative of

the Special Rapporteur, who was to coordinate the establishment of the monitoring network, has encountered as much difficulty in implementing this system as she has in trying to obtain resources for investigating the genocide. For two months, she was the sole person present on the spot. She was promised twenty monitors by the end of August but in fact received only four. Once guaranteed 150, enough to place one in every commune, she may have to make do with fewer than a dozen. As with other aspects of the international effort in Rwanda, much of the difficulty seems to stem from trivial bureaucratic conflicts.

Given the slow and inadequate response of the United Nations to the pressing need for monitoring the situation, a number of international human rights non-governmental organizations are exploring the possibility of creating a monitoring network in collaboration with local associations.

RWANDAN HUMAN RIGHTS ASSOCIATIONS

The various Rwandan human rights groups have suffered serious losses as a result of the killings of the Tutsi and members of the political opposition. They have begun courageously to rebuild themselves and have organized a group of teams who have begun assembling documentation on the genocide.

CONCLUSIONS

The lack of progress toward orderly prosecution of those accused of genocide has left the way open to demands for and execution of reprisal killings. In the absence of a police, the maintenance of order remains in the hands of the army, a situation which creates widespread fear, particularly out on the hills. The practice of keeping prisoners in military camps, with no adequate system for reporting their whereabouts, contributes to the widespread conviction that all those taken by the military have been killed. This is not always the case, but substantial numbers--at least hundreds--of persons taken by soldiers have been killed, as is demonstrated by the mass graves at Kivumu parish, which served briefly as a military camp.

In addition, Human Rights Watch/Africa documented one case where hundreds of civilians were killed in the course of the RPF advance into the region south of Gitarama.

The government has denounced killings for vengeance, but has not punished the soldiers responsible for them quickly and consistently enough to bring an end to the practice.

RECOMMENDATIONS**The Government of Rwanda**

Must act immediately and forcefully to end reprisal killings and other abuses by the military

Must create a civilian police force to replace the army in keeping order and must withdraw the soldiers to their barracks

Must arrest and prosecute all soldiers accused of killings and other exactions against the civilian population; specifically it should hold an immediate and public court martial of Major Sam Bigabiro and any other officer accused of ordering attacks against civilians such as that which occurred at Mukingi commune on June 19-21

Must order all soldiers who arrest suspects to immediately notify their families of their arrest and their place of detention

Must maintain and make public an up-to-date list of all persons arrested or otherwise detained by legitimate authorities

Must promptly open prisons to house civilian detainees and move all civilian detainees out of military camps

Must formulate specific, practical proposals for how expatriate jurists and investigators could be efficiently used to speed prosecution of the accused

Should encourage punishment appropriate to the degree of guilt of the accused, with attention to extenuating circumstances and to the willingness of the defendant to cooperate with investigations and to offer evidence of crimes committed by others, provided that his/her own participation is readily and truthfully confessed and is secondary to the crime. Such defendants should be offered a choice of obligatory community service instead of prison terms. Such special consideration must be given and announced in advance of the applicability of extenuating circumstances. Lesser punishments should be given to defendants who acted under threat of death. The possibility of pleading extenuating circumstances should not be available to those who gave orders or were in control of events so that they could have prevented loss of life and failed to do so.

Should continue and implement thoroughly its policy of openness, including its willingness to permit the installation of human rights monitors.

To the international community:

Those governments who have persons apparently guilty of genocide resident within their borders must extradite them to Rwanda for trial, bring them promptly to trial themselves or deliver them to an appropriate authority for trial before an

international tribunal, if one is created.

Those governments whose legal systems are like that of Rwanda should offer to provide jurists and investigators, either by seconding them from present government service or by aiding in their recruitment through other channels. All governments should assist the investigations needed to bring the guilty to trial for genocide, either through financial support or by providing needed personnel.

All governments should insist upon immediate establishment of an international tribunal, preferably by expanding the existing International Tribunal for war crimes in the former Yugoslavia through the addition of another chamber and prosecutor.

Through the Security Council, the international community should request all countries to cooperate with Rwandan authorities and with the International Tribunal in bringing those guilty of genocide to justice, specifically by arresting suspects wherever found, as long as probable cause of their guilt is established and as long as the suspects are afforded the means in the domestic legal system to challenge their arrest.