



UNION OF RWANDESE DEMOCRATIC FORCES (UFDR)

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RWANDA: THE KAGAME REGIME HAS MISMANAGED THE INTERNAL ISSUE OF JUSTICE

By his presidential decree issued on 1st January 2003, M. Paul Kagame instructed his Rwandan Patriotic Front (RPF)-led dictatorial government to conditionally release around 40,000 prison inmates among more than 120,000 prisoners languishing in overcrowded state jails without trial since 1994. According to the decree, those to be released are detainees who were aged between 14 to 18 years in 1994, those who are very sick, elderly detainees (over 70 years old), the suspects who confessed to involvement in the 1994 Tutsi genocide and had already served longer in prison than the maximum sentences for their offences, captured Hutu rebels and detainees accused of ordinary crimes. Even though the Rwandan government's prisoner release announcement is a good step in the right direction, it is insufficient and comes too late.

The RPF-led dictatorial regime has no evidence for many of the detainees to convict them by ordinary legal means. It then presumes guilty, instead of innocent, all detainees before any judgement and place them in a prisoner's dilemma game. According to M. Gerald Gahima, the Prosecutor-general, "if an estimated one million people died, another million or two millions people had a role in what happened." Whereas it is normally up to the prosecution to bring evidence against the accused, detainees in Kagame regime's jails are asked to confess themselves the crimes they are alleged to have committed or to imagine any, and to then ask for forgiveness in order to have a chance to get out of jail. Innocent and honest people who have no crime at all to confess and dare not lie in order to please the government are still languishing in jails. This is immoral and unacceptable.

Since the RPF took power in July 1994, the violations of the presumption of innocence, of the principles of the equality before the law, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal have become the general rule. The overcrowding of Rwandan state prisons resulted from massive arbitrary arrests and prolonged illegal detentions of the citizens, the majority of whom are political prisoners and persons whose properties have been illegally seized and occupied by RPF members and sympathisers. The state jails should accommodate only convicted persons and those whose cases are before ordinary courts. All arbitrarily arrested and illegally detained persons should be released. Ordinary courts should be reinforced and human rights respected.

Ten of thousands of detainees arbitrarily arrested and illegally detained in Rwandan overcrowded prisons and jails have died in the hands of the state without trial. The "*Rwanda Country Report on Human Rights Practices for 2001*" released on 4 March 2002 by the US Department of State's Bureau of Democracy, Human Rights and Labor reported 708 deaths in Rwandan overcrowded state prisons. The "*Rwanda Country Report on Human Rights Practices for 2000*" released on 23 February 2001 reported 1,100 deaths during the year due to curable diseases, suspected HIV/AIDS, or the cumulative effects of severe overcrowding. The "*Rwanda Country Report on Human Rights Practices for 1999*" released on 25 February 2000 reported the death of 1,148 inmates due to curable diseases, suspected AIDS, or the cumulative effects of severe overcrowding. The "*Rwanda Country Report on Human Rights Practices for 1998*" released on 26 February 1999 reported the death of more than 3,300 inmates during the year due to harsh prison conditions and mistreatment. The "*Rwanda Country Report on Human Rights Practices for 1997*" released by on 30 January 1998 reported the death of 860 inmates during the year due to preventable disease and the debilitating effects of overcrowding. All these reports revealed just the tip of the iceberg, since many prisoners were not officially registered. For the sake of justice, the Rwandan government should apologize to the family relatives and friends of all detainees who died in state jails awaiting trial and to all other victims of state criminality and pay them reparations.

The Union of Rwandan Democratic Forces (UFDR) is a political coalition formed by the Republican Rally for Democracy in Rwanda (RDR (<http://www.rdrwanda.org>)) and the Resistance Forces for Democracy (FRD).

Paul Kagame's prisoner release decision is only motivated by budgetary and political reasons and not by the quest of justice. Why now and not before? His decision comes after the forced withdrawal of Rwandan troops from the Democratic Republic of Congo which drastically reduced financial benefits from the illegal exploitation of Congolese resources and force him to reduce his government's expenses. His decision is also intended to seduce some sections of the Hutu population for the undemocratic presidential and parliamentary elections planned this year by his government.

In November 1997, the Justice Ministry said it cost \$10 million per year to keep prisoners in detention and revealed in early 1998 that the minors, elders, prisoners with incurable diseases and those without complete case files were to be released. Whereas the start of the release of prisoners arbitrarily arrested and illegally detained was a good step in the right direction, a campaign of protests, intimidation and terror raged by IBUKA, a genocide survivors' association close to the government, halted all planned releases. Bowing to pressures from IBUKA, the government appointed Jean de Dieu Mucyo, who called himself a genocide survivor, as minister of justice. In order to allow genocide survivors to prosecute themselves the accused, his Justice Department proposed then the controversial «gacaca» special courts which do not respect the principles of equity and standard norms internationally recognised for the administration of justice.

In 1995, the Kigali government first appealed for foreign magistrates to help resurrect the legal system and many countries and NGOs pledged to offer competent legal personnel and financial aid. However, the government later rejected all offers. Put in need to deliver its supporters a substantial number of guilty verdicts, the government solicited bilateral funding to train its sympathisers for the various roles required in the judicial system.

In January 1996, the RPF-led government-appointed parliament voted the relaxation of the requirement that magistrates in the Appeal Court have a law degree. On September 28, 1996, 20 Supreme Court judges, 29 Appeal Court judges and 200 public prosecutors and magistrates were sworn in after having had around six months legal training only. Most of the trials have been characteristically short, with no defence lawyers present, few if any witnesses called, little cross-examination and speedy sentencing by incompetent judges with inappropriate training or qualification in law. The capacity of the Rwandan ordinary courts should be reinforced and human rights respected.

The Kigali government has lacked vision in the internal issue of justice. Since 1994, its actions are guided by passion and a political partisan spirit. Its erratic behaviour, inconsistent and irrational actions have cost many millions of dollars from the Rwandan taxpayers and the international community; they have led to the death of ten of thousands of detainees, presumed innocent, before trial and strained relations between individuals and communities. UFDR appeals to Rwanda's aid donors, to all democratic countries, the United Nations, the European Union, the Organisation of the African Unity, all human rights organisations and freedom-loving people to use all their influence and power to secure the release of all prisoners arbitrarily arrested and illegally detained languishing in Kagame regime's overcrowded jails. Rwandan prisons should detain only convicted persons and those whose cases are before ordinary courts. There cannot be true peace in Rwanda without justice and there cannot be justice without an abiding culture of human rights.

Done in Montreal on 13 January 2003

For UFDR

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