



Submission by: Front Line and East and Horn of Africa Human Rights Defenders Project (EHAHRDP)

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The following submission has been prepared by the EHAHRDP and Front Line based on research carried out by these organisations in Rwanda and information received from independent human rights defenders (HRDs).

The space for independent human rights activism in Rwanda is limited. The 1994 genocide and its consequences continue to influence the human rights community and the broader context in Rwanda, and to shape the discourse and tactics used by the authorities to restrict and repress critical and independent human rights activism. As a result of the post-genocide climate and of significant restrictions against independent human rights work, self-censorship remains widespread within the human rights community. The practice of communication interception and the widespread monitoring of information and communication by the Rwandan authorities have also played a significant part in further increasing human rights defenders reluctance to deal with issues deemed overly sensitive or to develop new activities and tactics.

Mistrust amongst individual human rights defenders and organisations, as a result of the prevailing situation in the country, is rife and undermines collaboration amongst human rights activists. This is also reportedly due to the authorities' strategy of infiltrating NGOs and promoting an umbrella 'civil society platform' as a way of controlling civil society. The practice of infiltrating civil society organisations has the double effect of providing the authorities with intelligence over the activities and plans of the organisations targeted, and of further fomenting mistrust and fear amongst HRDs in a manner that is, by its own nature, difficult to prove and combat.

Attacks against human rights organisations and individual human rights defenders have been recorded in the last year. Private media journalists have also faced challenges including public attacks by the authorities and pro-government media. These smear campaigns have undermined their ability to work and to speak out on issues of key concern. Over the last three years a number of journalists have been threatened, placed under surveillance and physically assaulted, with one journalist subjected to a near fatal attack in 2007 and another, of the same paper, assassinated on 24 June 2010. At least eight journalists have been forced to leave the country as a result, a significant number in a country with such a small independent media scene.

The Rwandan constitution, in particular in Article 34 to 36, protects many key rights of human rights defenders including the rights to freedom of expression and information, association, and assembly. Nevertheless, a number of laws restricting these rights have recently been adopted. Of particular concern due to their impact on the work of human rights defenders and journalists are the 2008 Genocide Ideology Law and the 2009 Media Law (see below).

Stigmatisation and intimidation

Public attacks against independent journalists working in both the local and regional media originate at the highest level of government. At a press conference on 3 March 2010, President Kagame himself made direct reference to the editors of the two leading independent newspapers *Umuseso* and *Umuvugizi*, respectively Mr. Charles Kabonero and Mr. Jean Bosco Gasasira, linking them to two Rwandan Generals who had recently fled the country. At a June 2009 press conference, the Minister of Information referred to the same two Rwandan newspapers stating that "the[ir] days are numbered".

Similarly, at the 3 March 2010 press conference, the President also attacked the East African, a regional weekly newspaper, for an interview it conducted with Ms Victoire Ingabire, an opposition presidential candidate for the August 2010 elections, and questioned why only Ugandan journalists based in Uganda were currently reporting on Rwanda: "*And of course the worst of it... well, probably not worst but probably something that is equally offensive....why is it that people would cover Rwanda by a Ugandan journalist based in Uganda..for me that suggested we are probably less East African.... or the intention was to make Rwanda less East African...*".

Stigmatisation of independent journalists and human rights organisations in the government-owned and pro-governmental media is frequent and has increased in 2010. In one example, the pro-governmental New Times published an article in which it reported that a government spokesperson was accusing Human Rights Watch (HRW) of having sought to blackmail the Rwandan government, for having supposedly written a letter to President Kagame expressing their concern over the decision to expulse HRW Rwanda researcher, Carina Tertsakian, from the country.

Direct public intimidation and labelling of human rights activists by the authorities also occurred within the regional fora. During the May 2010 session of the African Commission on Human and Peoples' Rights (ACHPR) the Rwandan ambassador to the African Union (AU) present in Banjul accused Rwandan NGOs that had taken part in the NGO Forum, which proceeds the Commission's sessions, of insincerity and of being close to an organisation which is carrying out a campaign to destabilise the country, in clear reference to the *Forces Démocratiques de Libération du Rwanda* (FDLR).

Use of genocide-related charges against human rights defenders

The use genocide-related accusations against vocal independent civil society actors has characterised Rwanda since the immediate post-genocide time. Civil society has been profoundly affected by events in 2004, when a parliamentary report accused a number of leading independent human rights organisations of genocidal ideology and recommended their closure. Several human rights defenders fled the country as a result and leading human rights groups were taken over by pro-government individuals. Particularly affected by the events was the *Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme* (LIPRODHOR), which was temporarily closed down in July 2004. In August 2007, in a trial marred by procedural irregularities and seen by many as linked to his human rights work, former LIPRODHOR vice-president Francois-Xavier Byuma was sentenced to a 19-year prison term on genocide-related charges. Those events played an important role in furthering the climate of suspicion and self-censorship that continues to characterise Rwandan civil society today. Two key staff members of the *Ligue des Droits de la Personne dans la Région des Grands Lacs* (LDGL) also fled the country in 2007.

A new Genocide Ideology Law was passed in 2008. The 2008 law complements the 2003 law on genocide, which also criminalises genocide denial, revisionism and divisionism. While in principle the broad objectives of these laws may appear legitimate, their provisions have been used to stifle dissent and were invoked on a number of occasions against human rights defenders. The 2008 law, in particular, contains an extremely broad definition of genocide ideology and acts constituting genocide ideology, and does not include the need for intent in the definition of these acts or any link with an actual genocidal act. It contains restrictions to freedom of expression that go well

beyond permissible limitations under international human rights law. The law provides for a 10- to 25-year prison term for “stirring up ill feelings”, which may effectively be used against anybody seeking justice for crimes committed by the now ruling Rwandan Patriotic Front (RPF). The law also contains specific penalties directed at organisations, including non-profit organisations. The UN Special Rapporteur on human rights defenders noted the vague and ambiguous interpretation of the new law and stated that it “would be likely to limit any opposition even moderate to government, and restrict the full enjoyment of the right of freedom of expression and opinion”.

Genocide-related accusations against journalists and human rights defenders continue to be used today. On 25 April 2009 the Kinyarwanda service of the British Broadcasting Corporation (BBC) was suspended by former Minister of Information, Ms Louise Mushikiwabo, for two months. The suspension came after BBC broadcast a programme analysing the country’s forgiveness policies which included interviews with, amongst others, a former presidential candidate in which he criticised the government’s policy towards Hutus and another in which an individual raised the issue of abuses committed by the RPF. The Minister accused the programme of genocide denial.

More recently, a US human rights lawyer, Mr Peter Erlinder, was arrested on charges of genocide denial on 28 May 2010. This came both as a result of his human rights work as defence lawyer of opposition politician, Ms Victoire Ingabira Umuhoya, as well as a result of his calls for the crimes committed by the now ruling Rwandan Patriotic Front (RPF) to be prosecuted .

Other restrictions on the activities of human rights defenders

A new Organic Law Governing Non-Governmental Organisations was passed in 2008 (Law 55/2008 of 10/09/2008). While establishing NGOs is generally possible, a number of limitations of freedom of association have been reported and the process of registration is particularly burdensome.

Both national and international NGOs are required to apply for registration each year, which exposes them to uncertainty on whether re-registration will be granted. The registration process requires that NGOs demonstrate how their activities are in accordance with government priorities as identified in government initiatives Vision 2020, Economic Development Poverty Reduction Strategy (EDPRS) and District Development Plan (DDP). Before obtaining authorisation from the central government, NGOs have to receive provisional authorisation from each district and zone where they intend to work. The law requires that quarterly financial statements and lists of staff and assets be submitted to the authorities.

In April 2010, Human Rights Watch (HRW) Rwanda researcher, Carina Tertsakian, was forced to leave Rwanda on the basis of alleged irregularities in her work permit application. In March 2010, the Criminal Investigation Department (CID) summoned her twice on allegations of using false documents. Despite official letters from HRW’s headquarters confirming the authenticity of the documents and the submission of a second application, the Immigration Authorities informed HRW they were not satisfied with the explanations provided. The Rwandan authorities have since made clear that HRW can continue working in Rwanda but that the organisation would need to send a different researcher. This event is of concern and illustrates the climate of heightened restrictions on freedom of expression and association that the authorities have created in the lead up to the August 2010 presidential elections. Whilst presented as due to administrative irregularities, it is no coincidence that the decision targets a prominent and vocal international group in a way that directly affects the organisation’s capacity to work in the country.

The *Ligue des Droits de la Personne dans la Région des Grands Lacs* (LDGL), a regional organisation which is one of the most active human rights groups in the country, has at times faced challenges during its registration process. Throughout 2008 the Ministry of Immigration and Emigration refused to grant LDGL registration, which affected the organisation’s ability to monitor the 2008 elections. More recently, LDGL, along with other organisations, faced delays during their re-registration process, notably as a result of a request to sign a Memorandum of Understanding

with the Ministry of Justice, a requirement that did not exist before for organisations registered with that Ministry.

Human rights defenders fear new restrictions on human rights organisations planning to take part in election monitoring during the 2010 elections. In previous years the authorities have restricted NGO election monitoring. In 2008, the request by LIPRODHOR to monitor the elections outside of the government supported civil society platform was rejected by the National Electoral Commission (NEC).

Media freedom

Freedom of expression and the media are severely restricted in Rwanda and several journalists, particularly those working for independent private newspapers, reported receiving intimidation. In a country where the use of the media by the ruling party has had tragic repercussions, such a trend is alarming.

A new Media Law was passed in August 2009 and contained a number of provisions seen as problematic. The law maintained defamation as a criminal offence and included vague language allowing prosecution for publishing material considered in “contempt to the head of state” or against public decency. Furthermore, recognised academic qualifications were made a prerequisite for registration as journalist, which may affect a number of independent journalists who have not followed a formal academic curriculum but who have been active in the profession for a number of years. The law also included financial requirements, which particularly affect the private media that have fewer opportunities to generate income from advertising. The law also granted significant powers to the existing High Media Council (HMC), the body mandated to promote press freedom in the country, including power to suspend newspapers.

The independence of the HMC is highly questionable. The January 2010 HMC elections were flawed. They largely failed to follow the procedure recommended by the Ministry of Information, notably to allow one vote per media house: certain media houses were not invited to the proceedings, whilst others, notably the pro-governmental *New Times*, were granted several votes. As a result, representatives of pro-governmental media now dominate the Council, thus reinforcing the already existing government influence over this institution. In light of the increased powers of the Council under the new Media Law this development risks to further restrict media freedoms.

While the new regulatory framework affects the general media landscape in its entirety, private media outlets, particularly the two leading Kinyarwanda papers, *Umuseso* and *Umuvugizi*, are the primary target of these restrictions

On 13 April 2010, the HMC announced the suspension of *Umuseso* and *Umuvugizi* for six months. The legality of the suspension has been questioned both in terms of its length and of the procedure used, which appear to be at odds with the New Media Law itself. The newspapers were accused of having produced material that were allegedly defamatory of President Kagame, inciting the army to insubordination, and creating fear among the public. The decision followed a number of public statements by the authorities against the newspapers, including by President Kagame in March 2010 and by the Minister of Information in June 2009 (see above). The suspension will only end once the August 2010 elections are over. The Office of the Prosecutor also brought a series of criminal cases against the two newspapers, notably on charges of defamation in connection with articles exposing scandals of public figures .

In 2007 Editor of *Umuvugizi*, Jean Bosco Gasasira narrowly survived an attack by a group of assailants outside his house. To date no one has been held accountable for the attempted murder. More recently, on 24 June 2010, Acting Editor of *Umuvugizi*, Jean Leonard Rugabage was shot dead outside his home. According to reports, Mr. Rugabage was investigating the shooting of an exiled former Rwandan general in South Africa. Such targeted attacks against human rights defenders, particularly journalists, also have an intimidating impact on the human rights community as a whole.

LGBTI defenders

In December 2009, a new draft penal code which included a provision criminalising same-sex relations and their promotion was tabled for approval by parliament. As a result of significant outcry, nationally and internationally, the provision on same-sex relations, which would have had a significant negative impact on the work of LGBTI rights defenders as well as health organisations, was not adopted.

While this was a welcome development, LGBTI rights defenders remain exposed to violence and abuses. On 11 June 2010, two leading LGBTI rights defenders from the Horizon Community Association (HOCA) were arbitrarily arrested by police and held in custody for three days. They were not allowed access to their families and lawyers, were not provided with food or water during the time in custody, and suffered ill-treatment. They were released on 13 June without charges. Similarly, on 27 February 2008 two LGBTI activists were arrested at Kigali Airport on their way to attend a conference in Mozambique, transferred to the Criminal Investigation Department (CID) and accused of forging their invitations for the conference. The activists were detained for several days before being tried and released on bail.

Recommendations

EHAHRDP and Front Line therefore call upon the Human Rights Council and individual UN member states to call on the Rwandan authorities to prioritise the protection of human rights defenders and in doing so to:

1. Take immediate measures to ensure that the legitimacy of the work of human rights defenders and independent journalists is publicly recognised at the highest levels. The authorities should refrain from any statement stigmatising human rights defenders and independent journalists and accept criticism of their policies and actions;
2. Carry out an independent review of the implementation of genocide-related laws, and ensure their implementation in way that is consistent with the rights recognised by the 1998 United Nations Declaration on Human Rights Defenders and with Rwanda's international obligations;
3. Respect the role played by international NGOs alongside national organisations, and re-consider the outcome of the process leading to the de facto expulsion of Human Rights Watch from the country;
4. Ensure that NGO registration procedure is not used to delay and hinder the legitimate work of human rights defenders;
5. Ensure that national legislation affecting the rights of HRDs adhere to the country's national, regional and international legal obligations;
6. Take urgent measures to cease the sanctioning by public bodies, including the High Media Council and the office of the Public Prosecutor, of independent media outlets;
7. Identify and implement appropriate measures to reform the High Media Council and strengthen its credibility and independence;
8. Ensure the safe return to Rwanda of those human rights defenders who have been forced to leave and wish to return;
9. Conduct an independent inquiry into the source of all forms of intimidation, harassment and attacks directed towards human rights defenders and organisations mentioned in this report and particularly ensure that an independent inquiry into the June 2010 assassination of Jean-Leonard Rugabage is carried out and that those responsible are held to account before a court which meets international standards;
10. Ensure that all human rights defenders in Rwanda are free to carry out their human rights activities free from persecution and harassment.