



JUST ATONEMENT INC.

justice  
hope peace unity equal opportunity  
golden age  
progress sustainability democracy freedom  
human rights harmony civilization

**Just Atonement Inc.**

119 W 24th Street, Second Floor  
New York, New York 10011

Executive Director: [Dave Inder Comar](#)  
Email: [inder@justatonement.org](mailto:inder@justatonement.org)  
Telephone: [+1 646 600 5470](tel:+16466005470)

Just Atonement Inc. (JAI) incites transformative social change by empowering lawyers and law students with the opportunities, training and means to defend democracy, human rights, and a livable planet.

JAI was founded in the United States of America in 2017.

JAI invites and organizes legal professionals globally into a single order and aligns a vision of a peaceful, sustainable world, governed by the democratic rule of law; litigates in courts all over the world on cutting edge human rights cases to build peace and sustainability, and to defend democracy; and advocates for a vision of a true Golden Age for humanity: a world where countries settle their disputes peacefully, manage social and economic systems that are in harmony with the planet, and govern themselves through the principles of democracy, the rule of law, and human rights.

JAI submits this written submission with respect to the Universal Periodic Review of the Republic of Rwanda.

**Political Repression**

1. The ruling party of Rwanda, the Rwandan Patriotic Front (RPF), exerts complete control over the political space of the country. Paul Kagame is now serving in his twentieth year as President, after changing the constitution in 2015 to permit himself to run for a third term. Under the amended constitution Kagame can theoretically remain president until 2034.
2. The spectre of the 1994 genocide is frequently used to chill opposition and brand politicians and media critical of the RPF as “divisionist.” The national government enforces laws against divisionism, “genocide ideology,” and “spreading false information with the intent to create hostile international opinion against the state.” These laws discourage political debate and criticism of the government.



3. Though the Constitution provides for a multi-party state, the government-controlled Rwanda Governance Board can deny registration of a political party for any reason, and even registered parties have been unfairly blocked from entering elections by the National Election Commission.
4. In addition to shutting opposition parties and candidates out of the formal process, the RPF government retains its stranglehold over the political process through threats, intimidation, extrajudicial killings, enforced disappearances, and politically motivated trials. In 2019, at least four prominent members of the FDU-Inkingi opposition party (FDU) were found dead or reported missing under mysterious circumstances. These suspicious deaths and disappearances are rarely investigated. Other members of the FDU party have reported being arbitrarily arrested, detained, and/or physically tortured.
5. During the 2017 presidential election, two different female opposition candidates were arrested and served prison sentences on trumped-up charges. Amnesty International and the African Court on Human and People's Rights agree that these sentences amount to a criminalization of freedom of expression.
6. In 2017 Kagame won his presidential re-election with 98.8% of the vote. Observers reported ballot-stuffing, favoritism by poll workers towards the RPF, unfair registration practices, and failures to respect ballot secrecy. According to Freedom House, the election received a 0/4 rating as to whether it was free and fair.
7. The rights laid out in the International Convention of Civil and Political Rights (ICCPR) are to be respected equally for all persons, regardless of "political or other opinion." (Article 2). Individual opposition candidates in Rwanda have surely suffered violations of their rights based on their political opinions, namely their rights to protection against arbitrary deprivation of life (Article 6), arbitrary detention or arrest (Article 9), and torture and degrading punishments (Article 7). Similar protections exist in the African Charter on Human and Peoples' Rights ("African Charter"), Articles 2, 4, 5, and 6.
8. The actions of the RPF government in stifling the formation of political parties, and political opposition generally, also violate the rights of candidates and voters to freely determine their own political status (ICCPR Article 1) and to freely associate (ICCPR Article 22), along with the analogous rights found in the African Charter, Articles 10 and 13.
9. Moreover, the national elections in Rwanda do not satisfy the standards set out in Article 25 of the ICCPR requiring that all citizens shall have the opportunity, without regard to political opinion, to take part in the conduct of public affairs and to vote, in "genuine" elections, by secret ballot.

### Recommendations



10. The next general presidential election in Rwanda is scheduled for 2024. The UN should send election observers to ensure that these elections are free and fair, beginning with party and candidate registration and continuing through election day. A new referendum should also be introduced to reinstate the two-term limit previously enshrined in Rwanda's constitution, and this referendum should also be observed by election monitors.

### **Freedom of Expression**

11. Though the Rwandan constitution provides for freedom of expression, including for the press, this freedom has been seriously curtailed by threats of violence, arrests, and enforced disappearances of journalists by the government. Censorship is widespread, pursuant to laws which restrict freedom of expression if journalists "jeopardize the general public order and good morals, an individual's right to honor and reputation in the public eye and to the right to inviolability of a person's private life and family."

12. Many journalists and media outlets also engage in self-censorship for fear of government reprisal. Since 1996, at least eight journalists have been killed or reported missing, and at least 35 have fled the country. Rwanda was ranked 155/180 countries in the 2020 World Press Freedom Index, and received a 0/4 rating for free and independent media, according to Freedom House.

13. In 2014, the government suspended the BBC Kinyarwanda service, following the release of a BBC documentary which referenced killings which took place in 1994 at the hands of the RPF, led by now-President Kagame. BBC Kinyarwanda has not returned, and foreign journalists are often unable to get the accreditation and visas they need to report in Rwanda.

14. Even private persons fear expressing dissent, because of widespread reports that the government monitors personal communications and social media, is permitted by law to hack telecommunications networks, and uses informants to infiltrate civil society.

### Recommendations

15. The practices of the government violate Article 19 of the ICCPR and Article 9 of the African Charter, which guarantee freedom of expression. The Rwandan government must reaffirm its commitment to respecting and protecting the right to independent media and freedom of expression in accordance with its obligations under international human rights treaties, and should conduct independent investigations into all acts of intimidation against journalists.

### **Arbitrary Detention, Ill-treatment, and Torture**

16. It is not only political opponents of the RPF or journalists who suffer arbitrary arrest and detention. Human Rights Watch (HRW) confirmed 104 cases of illegal detentions in Rwandan military centers between 2010-2016, though the real number is likely much higher. Torture of detainees by military officials in these facilities is widespread and systematic, including through beating, electric shocks, asphyxiation, and mock executions.



17. Arbitrary detention of street children and other “deviant” members of society in illegal detention centers (also known as “transit centers” or “rehabilitation centers”) is common and ongoing. Under legislation introduced in 2017, any person who “exhibits deviant behaviors” can be held in a transit center for up to two months, without further legal proceedings or oversight. The law defines deviant behaviors as “prostitution, drug use, begging, vagrancy, informal street vending, or any other deviant behavior that is harmful to the public.”

18. Despite multiple reports from HRW, arbitrary detention and ill-treatment in these facilities remains rampant. Such facilities exist in Kigali (Gikondo Transit Center) and in the Huye, Rubavu, and Muhanga districts. Gikondo has served as an unofficial detention facility for over a decade. A 2016 survey estimated Gikondo holds between 200 and 800 detainees at any one time. Interviews of formerly detained children in 2016 confirmed that daily beatings by the police and lack of access to food, water, and hygiene were common in all facilities.

19. In 2019, the Rwandan National Commission for Children documented 2,882 children living on the streets, and estimated that approximately half of these children had been held in a transit center at least once. Conditions in these facilities fall well below international standards and Rwandan law, as children and adults face deplorable conditions, in shared rooms of over 200 people with very poor sanitation and insufficient access to food, drinking water, water for cleaning, and/or toilet facilities. Spread of communicable diseases, skin infections, and lice are common.

20. No judicial process exists to determine if children or adults have been arbitrarily detained, or how long they spend at these centers, or how they are released or transferred. Children are typically released back onto the street and warned that they will be re-arrested if they remain living on the street, though they are provided with no financial assistance or logistical support to return to secure housing.

21. The arbitrary detentions, torture, and ill-treatment of detainees violate the guarantees found in Articles 7 and 9 of the ICCPR as well as Articles 5 and 6 of the African Charter. Further, the treatment of detainees violates ICCPR Article 10, which states that “[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person,” that the accused should be separated from the convicted and adults separated from children, and that children shall have adjudication as quickly as possible. The treatment of children in transit centers also violates the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

### Recommendations

22. Rwandan authorities must shut down Gikondo and other transit centers and end the practice of illegal and arbitrary detentions. They should release all detainees immediately and aggressively pursue an independent investigation of the Rwandan police and others responsible for illegal arrests and physical abuse of detainees, including children.



23. Pursuant to ICCPR Article 9, “[a]nyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.” Rwandan authorities should commit to providing compensation and social support to those who have been illegally detained and tortured.

24. Finally, the Rwandan government must repeal the 2017 law which permitted detention of “deviant” members of society, and reframe its objectives to provide economic and social support for these most vulnerable members of society, rather than locking them up.

### **Justice for the Genocide**

25. In 2012, Rwanda formally closed its Gacaca court system, a traditional, home-grown justice mechanism modified in the wake of the genocide to try suspected perpetrators within their own communities, based on confession, witness testimony, and community participation. Because Gacaca was less time consuming than processing cases through the traditional court system, and because its system of plea-bargaining and community service allowed for significantly reduced sentences, the government was able to process cases, relieve massive prison overcrowding, and return former detainees to the workforce much more quickly than if all cases had been processed exclusively through the Rwandan courts or the ICTR. In just 10 years, 1,958,634 genocide cases were tried through Gacaca.

26. While Gacaca was surely a success in some ways, it was also a grave miscarriage of justice for survivors of the systematic and widespread sexual violence which took place during the genocide. Between 250,000 and 500,000 Rwandan women were raped during the genocide, and the orchestrators of the genocide considered sexual violence against Tutsi women and girls an integral part of their genocidal strategy.

27. Sexual crimes were originally placed outside of the jurisdiction of Gacaca, but in 2008 the government transferred the remaining sexual violence cases to Gacaca. Though Gacaca was designed so that survivors could benefit from the healing, truth-telling, and accountability which arise from community participation and restorative justice mechanisms, these objectives were not re-examined upon the decision to include sexual crimes at Gacaca, which was motivated almost exclusively by the desire to expedite genocide trials.

28. Structural barriers within the Gacaca law and confusion surrounding the transferring of sexual violence crimes to Gacaca meant that many cases of sexual violence were never reported or were never registered. Though as many as 500,000 women experienced sexual violence in connection with the genocide, only 6,608 saw their cases processed through Gacaca.

29. Even those cases which did appear before Gacaca rarely resulted in “justice” for rape survivors, as most did not end in conviction or resulted in light sentences due to Gacaca’s system of plea-bargaining. Moreover, because Gacaca relies on witness testimony and public participation, those who testified about their experiences of sexual violence routinely faced retributive violence, severe psychological re-traumatization, increased social stigma, and rejection from their communities, leading to increased poverty and poor health for Rwanda’s



most vulnerable. Procedural safeguards such as allowing rape victims to testify *in camera* were insufficient to protect women.

30. The Universal Declaration of Human Rights, Article 8 states that “[e]veryone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.” Rwanda has not fulfilled this obligation for survivors of sexual violence from the genocide, as the Gacaca courts were in no way a “competent” tribunal to try such crimes, and rather than being given an effective remedy, those rape survivors who were even able to testify at Gacaca most often experienced increased violence, social isolation, loss of community support, and loss of financial assistance or livelihood.

31. The lack of access to justice for genocidal rape survivors also violates ICCPR Article 2, which guarantees that all persons whose human rights have been violated should receive an effective remedy, and Article 14 which states that “press and the public may be excluded from all or part of a trial... when the interest of the private lives of the parties so requires, or...in special circumstances where publicity would prejudice the interests of justice.”

32. Finally, the lack of justice specifically for female survivors violates ICCPR Article 2 and African Charter Article 2, which guarantee the equal enjoyment of human rights without distinction based on sex, as well as Article 26 of the ICCPR and Article 3 of the African Charter which guarantee equal protection of the law for all persons.

### Recommendations

33. Rather than seeking restorative justice for survivors of sexual violence through a system which was not designed to meet their needs, an effective transitional justice program in Rwanda would evaluate the way in which these survivors define justice for themselves and prioritize the objectives which survivors have frequently highlighted as essential to the transitional justice framework, namely economic assistance, healthcare, trauma counselling, social support, and women’s empowerment programs.

34. Community-based, survivor-run, women-centered organizations that focus their resources on addressing the practical needs of rape survivors have been far more effective at providing “justice” to survivors of sexual violence from the genocide than has Gacaca. Organizations such as the Association for Widows and Orphans of Rwanda (AVEGA) and Solace Ministries are dedicated to a holistic approach to justice, providing economic and medical assistance, social support and childcare, mental health services and education. Because the state system of Gacaca has failed to produce meaningful justice for rape survivors, the government should now commit to providing financial support for these organizations and incorporating them into the transitional justice framework of Rwanda.

35. The government should also commit to paying reparations for genocide survivors, pursuant to the 2001 law which made Gacaca courts responsible for compiling lists of damages and beneficiaries and making recommendations for awarding reparations to individual survivors. These lists were compiled, but an indemnification fund was never established.



## Climate Change

**36. The breakdown and collapse of the Earth's climate system is imminent and may have already commenced.** As the planet warms, rainfall is becoming increasingly unpredictable and volatile throughout East Africa. According to the Environmental Minister, more than 140 Rwandans have died and 3,000 homes destroyed due to flooding and landslides this year alone.

37. Rwanda ranks 185 out of 188 countries in per capita greenhouse gas emissions and contributes only 0.01% to global emissions. Despite their small footprint, Rwanda is highly vulnerable to climate change because its economy relies heavily on agriculture and hydroelectric power.

38. Rwanda was the first African country, and the least developed country, to submit a stricter emissions target to the UN in 2020.

## Recommendation

39. Rwanda should continue to demonstrate climate change leadership to the world by pursuing aggressive emissions targets. Developed countries must also adhere to their commitments under the UNFCCC to prevent climate change devastation to developing countries, in accordance with their common but differentiated responsibilities.

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## Acknowledgement

*This submission was prepared by Dave Inder Comar (Stanford 2001, Stanford 2002, NYU School of Law 2005) and Emma Costello (University of Michigan 2016, Northwestern Pritzker School of Law 2022)*