

# **RWANDA BEYOND THE STERILE DEBATE BETWEEN BELIEVERS AND NON BELIEVERS**



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## Foreword

Cooperation with Rwanda has been a sensitive topic for quite some time, especially among representatives of other governments, of NGOs as well as in the academic community. This debate is often "sterile", deadlocked between two fronts, "believers" on one side and "non-believers" on the other. In other words, a debate between those who believe in the possibility of an economic miracle and the emergence of good governance, pitched against those who think that the democratic space has been severely limited, that agricultural policies do not benefit the poor, that the legal system is a tool misused by the state and that the Rwandan elite continues to loot the Democratic Republic of Congo.

Our intention is to bring the debate to a higher level by trying to describe, based on renowned public sources (World Bank, UNDP, Human Rights Watch, ICG, academic works), the actual tendencies within Rwanda on these different topics.

We hope that this document will help clarify the debate and make it more constructive than previously. We hope it will contribute to a deeper reflexion on what the future of Rwanda could be.

# Chapter 1: The evolution of the democratic environment in Rwanda

While several African countries were experiencing unrest and organizing national conferences to address this situation, the democratic transition in Rwanda played out against a background of civil war. In October 1990, the Tutsi rebellion (FPR) attacked Rwanda from the north. Their objective was a return to democracy and the right of return for refugees. A month later, in November, President Juvénal Habyarimana announced the return to a multiparty system. Peace talks began in Arusha, Tanzania, between the government, the FPR and the democratic opposition. The negotiations addressed power sharing and the rule of law.

The signing of the Arusha Accords on 4th August 1993 brought an end, theoretically at least, to three years of low intensity civil war. This anticipated the beginning of a transition period led by a government of national unity. On April 6th, 1994, President Habyarimana's plane was shot down over Kigali. This attack marked the beginning of the genocide of Tutsis in Rwanda, a concerted killing that lasted from April to June 1994. The main political opposition figures were also assassinated during that time. The FPR resumed its offensive and on 4th July 1994 entered Kigali and took power. One of the consequences of the war was the disappearance of any type of democratic opposition. But in the face of the urgent humanitarian crisis, the financial and political backers decided to place their hopes in a new transition government, run by the FPR.

## 1. The new political order after 1994

The war had a devastating and enduring effect on the political sphere: it polarised debate into two opposing groups, the Hutus and the Tutsis. This polarisation was not present before the war and seems to have arisen little by little during the conflict. The Habyarimana regime had played the card of Hutu unity against a common enemy: the Tutsi rebellion (FPR). The genocide of spring 1994 was, essentially, the work of militias who, after the victory of the FPR, joined the Rwandan Armed Forces (FAR) and fled over the border, to Zaire and Tanzania, along with over two million Hutu refugees.

Very early, human rights organisations and the UNHCR sounded alarm bells over the violent and discriminatory practices of the FPR and the Rwandan Patriotic Army (APR). Amnesty International (Reports of Killings and Abductions by the FPR, April-August 1994, London, October 1994) and Human Rights Watch (The Aftermath of Genocide in Rwanda, New York, September 1994; Rwanda: A new catastrophe?, New York, December 1994) published reports as early as fall 1994. The FPR took control of the land abandoned by those who had fled. In November 1994, the United Nations Security Council created the International Criminal Tribunal for Rwanda (ICTR), whose mission was to bring to justice those responsible for the acts of genocide and other serious violations of International Humanitarian Law committed between January 1st and December 31st 1994.

The early years of the "transition" were marked by concerns about security. The presence, on the Congolese territory, of Hutu rebels, former soldiers of the Rwandan Armed Forces and of the former Interahamwe militia, meant that military pressure on the new government was maintained. Most of the Hutu refugees were repatriated in late 1996. The First Congo War did not manage to eliminate the threat of the supporters of the old regime and did not ease the military pressure. Between November 1997 and February 1998, the insurrection flared up in Ruhengeri and Gisenyi province. However, when the Second Congo War began in 1998, it became obvious that Rwanda's civil war was spilling over the nation's borders.

Within the country itself, the government of Rwanda strived to establish control over the territory. During this transition period, political activities were highly supervised. The Fundamental Law defined this transition period as being exceptional, thus preventing any form of political or oppositional mobilisation (ICG, 2002: 9). The parties were forbidden to hold meetings or to set up any local structures, preventing the building of political networks across the country.

The process of constitutional reform, begun after 1999, did not appear to challenge these 'exceptional' political measures. 'People's consultations' were undertaken by a Constitutional Commission, which did not carry out open debates regarding the country's future but did have the effect of defusing any international criticism. Grass-roots activity by the parties was not allowed. In November 2002 the International Crisis Group (ICG) published a report (Rwanda at the End of the Transition: A Necessary Political Liberalisation), which concluded that the process did not offer "any perspective or guarantee of political liberalisation" (ICG, 2002: 6).

In May 2003, the new Constitution is adopted by referendum. The European Union, having sent a team of observers, raises a number of concerns: in particular on the fact that the new constitution limits the freedom of expression and the right to hold meetings (Rwanda. Constitutional Referendum, 26 May 2003. Final report: 6). In August the first presidential election is held and takes place peacefully. Paul Kagame, the leader of the Tutsi rebellion of 1990 is elected with 96% of the votes. His chief opponent, Faustin Twagiramungu, the leader of the democratic opposition before 1994 and the Prime Minister of the national union government until August 1995, is credited with 3% of the votes.

The level of general security is now exemplary, both in Kigali and in the countryside. In January 2006, an administrative reform is instituted whereby the twelve former prefectures give way to five new provinces, and a large number of civil servants are transferred from the central administration to local level. This decentralisation is a procedure encouraged by the financial backers and aims at increasing the efficiency of the distribution of humanitarian aid and the quality of governance. At the lower administrative levels - the districts and the local cells - a 'balance' has been established between those authorities appointed by the central administration and the elected advisers (cf. Ingelaere, 2007: 35). However, the most influential positions are designated by appointment, and only appointed authorities receive a regular salary. Consequently, the chain

of responsibility moves upwards, from local entities towards central government.

Unexpectedly, education has likewise proved to be the centre of a new control over the public space.

Civic Education and Rwandan History in particular, through their methodology and syllabi, act like a deliberate re-education programme aiming to reshape people's perspectives. A dual-purpose manual, for pupils and teachers, was published in 2004 by the Centre national de développement des programmes (Guide d'éducation civique. Compétences de vie. Pour les écoles primaires du Rwanda [Guide to civic education. Life skills. For primary schools in Rwanda]). In this course, history is presented within the general concept of national unity. However, in 2009, the decision by the authorities to impose English as the main language of school education has various consequences on national cohesion, as it represents a break with a Francophone past, and openly favours the members of the former political Diaspora who have lived in Anglophone Uganda. All holders of an official teaching degree must therefore be 're-educated' or face losing their job. Finally, a threat of disciplinary and penal sanctions is placed on the teachers, should their views on history be interpreted as not being conform to the official line (see Chapter 3.3 of *Divisionnisme et idéologie du génocide* [Divisionism and Ideology of the Genocide]).

Since 2003, the political message has been unchanged, specifically and constantly stressing the need for national unity and reconciliation. Following the legislative elections in September 2008, Rwanda has entered a new electoral cycle which will lead to the presidential elections of 2010. The electoral results of 2008, like those of 2003, show once again a clear victory for the FPR. Nevertheless, the fact the FPR only garnered 78.76% of the votes (as announced by the electoral commission) and that the Social Democratic Party (PSD) obtained 13.12% while the Liberal Party (PL) made 7.5%, could be presented as proof that a multi-party system is emerging. Sadly, the facts observed on the ground prove otherwise.

The EU election observers (EU EOM) have analyzed a sample of 24.96 % of the votes. Within this sample, considered to be globally representative, the FPR received 98.39% of the votes (Rwandan election results as per EU EOM observation), gathering 100 % of the vote in certain regions: the other contending parties never succeeding in crossing the legal 5% threshold necessary to obtain seats in parliament. The EU EOM has found several cases of vote fraud at all levels, particularly in the ballots and the counting of the votes. The manipulation of the final results, on the other hand, is not mentioned in the EU EOM report, published on January 19, 2009 (cf. [www.eueomrwanda.org](http://www.eueomrwanda.org)).

## 2°) The international community taken hostage by it's guilt

The new internal political order has gone hand in hand with the repositioning of Rwanda on an international scale. The new regime has benefitted from the support of new partners such as the USA, the UK and the Netherlands, who previously did not have Embassies in Kigali. Once oriented towards the "French-speaking world", Rwanda has now made one of its top priorities the integration into the East African Community (EAC). The UK is the main financial contributor to Rwanda's budget, pledging 100 million dollars annually for the next ten years (The Economist, 25.09.08). The country is expected to join the Commonwealth in 2009.

The turnaround is impressive for this historically French-speaking country and former colony of Belgium. In November 2006, the French justice released international arrest warrants for nine Rwandan leaders. Kigali immediately broke off its diplomatic relations with France. In February 2008, the Spanish justice in turn launched a series of arrest warrants for 40 higher APR officers. Some of those under warrant have since been able to travel abroad without any problems. Rose Kabuye was the first to be arrested, by German authorities in November 2008. In retaliation the Rwandan government (GoR) organized protest marches in Kigali, targeting the German embassy, which led the European Union (EU) to release a statement in which "the EU and its Member States regret the reaction of the GoR following the arrest" and

"the demonstrations organised in Kigali against the German Embassy." (EU Brussels, 01/12/08)

Since 1994, the international community has been divided about Rwanda. A joint committee for development has been put into place. Yet not all those involved share the same vision: there isn't a "common front". The international Backers (European Commission, UK, Sweden, World Bank, African Development Bank) who provide direct budgetary support, are not active anymore at local level, meaning that they lack "first hand" information and are not aware of the reality of the implementation on the ground. "Dfid Rwanda is strongly oriented at central agencies; it is distant from others important players and insufficiently informed about implementation realities on the ground" (Kanyarukiga et al., 2006: 41)..

The fact that Rwanda received direct budgetary support was a political decision and not the result of a gradual process, as is usually the case for other countries. "Budget support was a leap of faith; faith in the willingness and the competence of the GoR. This lead e.g. to the situation in which the EC conditions for sector budget support are not yet fulfilled while the EC provides GBS" (Holvoet, Rombouts, 2008: 33). These backers are quite often unaware of the programs and projects of the other actors'. Bilateral backers continue to take different views on the political situation and the governance in the country.

Backers have undisputed potential in taking on the role of control and action moderator of the GoR. "Substantial" concerns in Rwanda centre on political questions, such as horizontal discrimination and injustices between Hutu and Tutsi communities. Despite the fact that this classification is still very much correct within Rwandan society, it is nevertheless very politically incorrect to speak of Hutus and Tutsis in Rwanda. Concerns over the way in which the government manages this issue are legitimate, because the decision to ignore these delicate questions could give a deceptive picture, with positive results on a "macro" level, disguising distortions on a "micro" level. In this case, the division among the various international backers will only reinforce the GoR's position.

On many occasions, those who have levelled criticism have been labelled “negationist” or “revisionist” by the regime: such accusations have been levelled against IPEP, an international panel of authorities set up by the Organisation of African Unity (OAU) in 1998 to investigate the 1994 genocide and its consequences, but also against Amnesty International, the International Crisis Group (ICG), or Human Rights Watch. Doubt was cast over the objectivity of the EU’s mission to observe the elections in August 2003. Several researchers have become persona non grata in Rwanda. Alison Des Forges, principal adviser of HRW for Africa since 1991, was twice refused entry to Rwanda, in September and December 2008. Since 2002, ICG has not published any reports on Rwanda (cf. [www.crisisgroup.org](http://www.crisisgroup.org)). Numerous International NGOs have decided to stop reporting from within the country or give evidence, for fear of being deported.

In 2008, the GoR required that members of the MOE UE should be neither French nor Spanish. While such a demand is theoretically impossible to carry out within the constraints of EU policies, it nevertheless succeeded, Rwanda simply refused to grant visas to the French members of the EU observation mission. Eventually on the 12th December 2008, the Security Council published the final report by the Group of Experts on the RDC (S/2008/773). The report indicates that the GoR supports the Congolese rebel movement CNDP. As a response, Sweden and the Netherlands suspended their budget aid payment; the British press has called upon their government to act in a similar fashion. Behind the scenes, lengthy discussions ensued concerning the publication of the EU observation report on the September 2008 elections.

### **3) About a state obsessed with controlling its citizens**

Has the diplomatic and financial support given to the Government of Rwanda since 1994 finally allowed the country to progress along the road to democracy and reconciliation? The processes of democratisation and decentralisation were officially set in motion in 2001. The International Crisis Group (ICG) states that one of the main aims of the local elections in March 2001 for the Rwandan Patriotic Front (FPR) was the

establishment of a network of local officials with a view to the upcoming presidential and general elections (ICG, 2001: 35).

The increase in the number of supervisory staff to oversee the population at all administrative and territorial levels of the country is another key factor in the understanding of the institutional reform in 2006. It allows a national vision and ideology to be applied at a local level. Before each election, despite a strong influence on society, and from a seemingly untouchable position, the regime reinforced its ideological and police control, revealing a sign of its anxiety. In practice, the concept of ‘divisionism’ served as a tool for ideological control. In 2008 the EU’s Election Observation Mission (EOM) noted that “No registered political party in Rwanda has an ideology which is significantly different from that of the FPR” (EU EOM, 2008: 4).

The negation of the “ethnic” parameter has not yet allowed this gap to be crossed. Until the FPR attack in 1990, it seems that this dimension had only a minimal effect on social relations (cf. e.g. Ingelaere, 2007: 11). While it has officially been abolished, the “ethnic” factor still shapes daily life and the representations of authority today. The regime is perceived by both groups as being “that of the Tutsis” (ibid: 30). In popular opinion, power and identity remain inseparable.

The structure of power fifteen years later still reflects the positions acquired with the military victory. The elections, and in particular those of 2003, have given increased legitimacy to the authorities. However the debate on the future of the country has not begun and Kigali continues to reject all dialogue with the opposition. The FPR’s monopoly on political life has therefore not allowed the past to be confronted in all its complexity (see chapter 3). Instead, all indications point to a degree of continuity with the previous regime, in the way in which power is exercised and in the nature of the State. The country’s administration is vertical, from top to bottom. The party has established a strong hierarchical structure, with officials and “intellectuals” especially encouraged to take an oath. The cleansing of the political class is still going on. The people have developed “an ability to display agreement” (ICG, 2002: 7) and play an “avoidance game” with the authorities. But the

power is not rooted in popular support. Last but not least, the presence of a significant Rwandese community in exile has been renewed.

There is no denying that this authoritarianism produces its own dynamic of opposition. The inequalities in the promotion system have left many dissatisfied. The harassment of all political opponents has contributed to the radicalisation of the opposition. For the past ten years or so, Rwanda has thus been plunged into a vicious circle where the authoritarian trend has provoked the radicalisation of the unarmed opposition, which in turn leads to paranoia and reinforces the authoritarianism of the regime.

The support which has been given to the regime has therefore contributed to the maintenance of a sort of status quo. Instead of using its resources and influence to seek a negotiated political solution, the international community has sent signals to one party telling it that it can pursue "victory" and maintain a form of impunity. The lack of condemnation, such as in the example of the most recent elections, encourages the same recurrences of an anti-democratic and totalitarian mechanism which already had tragic consequences in Rwanda in 1994. For the EU, this position is increasingly difficult to maintain. The achievements of the past fifteen years in terms democratisation and reconciliation remain fragile, despite the investments granted.

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## Chapter 2: Socio-economic policy: the gap widens

Economic and social inequality is key to understanding the issue of Rwanda. They partly fueled the violent insurgency and the revolutionary events of 1959. Investors have appreciated the return of the macro-economic stability and the measures taken to combat corruption. But at present, Rwanda faces the issue of increasing disparity between Kigali and the rural areas. Inequality between the rich and poor is also becoming more apparent. Finally, the country is more and more dependent on outside assistance.

### 1°) Socio-economic evolution

Between 1991 and 1994 the real GDP per capita growth fell at a rate of 8% per year (MB, 2007 b: 2). The genocide in 1994 led to the destruction of the labour supply (see chapter 1) and of capital wealth. Considering this historical heritage but also the political and social challenges, as well as the destructive impact of 1994, the documented progress made in the field of macroeconomic growth and stability since 1996 is impressive. Considerable progress has also been made in government finance, enforcement and budget monitoring. The country has recently benefited from the Heavily Indebted Poor Country Initiative (HIPC / PPCE Initiative) and the Multilateral Debt Relief Initiative (MDRI / IADM). The two initiatives have achieved a substantial reduction of Rwanda's debt, from 93% of the GDP in 2003, to 15% by the end of 2006 (World Bank, 2007 b: 4).

There has only been marginal improvement, however, of the measures of poverty. Progress since 1994 has been through the catch-up effect. The growth of the global GDP over the last few years has nonetheless been slowing down. Between 2001 and 2006 the incidence of poverty declined from 60.2% to 56.9% (UNDP, 2007: 7). During the same period, given strong demographic expansion, the absolute number of "poor" increased by 600 000 reaching 5.4 million people (UNDP, 2007).

Rwanda is also confronted with the problem of growing disparities between rich and poor. The Gini coefficient measures countries' revenue inequalities. The number 0 represents perfect

equality where everyone's revenue is equal, whereas 1 represents complete inequality. In the mid 80's, with the Gini coefficient at 0.29, the country was among the most "egalitarian" of the continent. In 2001, the coefficient reached 0.47. The problem was not perceived or at least not considered, and the inequality kept increasing. With a Gini coefficient of 0.51 in 2006 (Ansoms, 2008: 14), Rwanda was well above the average of the other African countries' Gini coefficients. Economic growth having brought large inequalities (cf. Ansoms, 2008: 15: Table 3: Gini coefficients for Rwanda), it had a limited impact on the reduction of poverty (GoR, 2006: 7).

Another disparity making its way through the Rwandan society is the increasing gap between Kigali and the rural areas. Over the past years, the number of poor has increased, mainly in rural areas. These areas now house 97.5% of the poor (Ansoms, 2007; World Bank, 2007 a). The poverty rate reaches 62.5% in the countryside versus 13% in Kigali and 41% in other urban areas (EICV 2, GoR, 2006). Poverty is therefore strongly linked to agricultural work, and is most widespread in certain areas where population density is the highest (in the center, the North and the South-West of the country. Ibid: 4).

Food security remains a major concern. The rapid population growth has contributed, over time, to the decline of the country's food sovereignty. Food imports increased by 12% between 2003 and 2005 (World Bank, 2007 a: 8). Rwanda imports at least 130 million tons of food per year and remains, structurally, a country showing a deficit in the food sector.

### 2°) Rural policy: small peasants pay the price

The structure of the economy is such that Rwanda depends mainly on the agricultural sector, which represents 42 % of its GDP (World Bank, 2007 :8) and employs 90% of the working population. The GoR and the World Bank (World Bank) have recognized the agricultural sector as a potential source of growth. By 2020, this 'transformation' must allow for the reduction by 50% of the percentage of the working population employed in the agricultural sector. The main objective of this aim is to

diversify the structure of the economy by increasing the proportion of the industrial and tertiary sectors.

The agricultural policy put in place aims to break with the subsistence farming of today, in order to move towards developing commercial farming and giving professional status to a number of more restricted farmers. Launched in June 2006, the Strategic plan for the transformation of agriculture (PSTA, GoR, 2004), includes incentives for the growing of commercial crops such as corn, rice and horticulture combined with traditional export crops like coffee and tea. Government financial resources will be granted with priority given to the more competitive production activities (National Agricultural Policy, Minagri, 2004: viii).

Following the agricultural policy the GoR adopted a new land law (Organic Law determining the use and management of land in Rwanda, n°08/2005). This law lifts restrictions on the division of plots smaller than 5 hectares in size. These plots, which protected small farmers from large scale landowners, can now be bought out. (cf. Décret-Loi n°09/76, art. 2 et 3 et LO n°08/2005, art. 20). "Consolidation" is becoming a formal procedure of aligning plots in view of farming the land more effectively (Art 2 & 20). The law does not cap extensions to property (Ansoms, 2007: 21). It introduces a further guarantee of productive use of the land allowing local authorities a wide scope of interpretation of 'productive use', which entitles them to commandeer 'under exploited' land (art 74).

As a result of these measures, farmers with more trading potential are favoured at the expense of small production units which still operate in accordance with the subsistence farming model. The measures also encourage the concentration of land in the hands of more competitive farmers, in a context where the distribution of land is inextricably linked to poverty. Such political choices on the economy will have important implications in terms of efficiency, equity and social conflict.

The lessons learned, particularly in Asia, demonstrate that an increase in agricultural activity built on a broader base, is more efficient to reduce poverty, during the first phases of the

structural transformation process. The World Bank acknowledges that "the growth-linkage effects of agriculture have proven most powerful when agricultural growth is driven by broad-based productivity increases in rural economies that are dominated by small farms, as is the rural economy of Rwanda", (2007 a: 6). Households in possession of small and average sized farms have a better food conversion ratio in order to promote the growth of other sectors of the local economy. They spend a larger part of their income on local goods and services (Ibid.).

### **3) Does the cooperation meet its objectives?**

What are the social and economic results achieved by the GoR? Or, stated otherwise, has Rwanda harvested the alleged dividends of peace since 1994? The opposite seems to be true. The popularity acquired since that fateful year has gone hand in hand with an increase in inequalities in terms of the economy. The Gini coefficient has reached a record high (0.51) in African standards, currently placing Rwanda among the most unequal countries in the world (UNDP, 2007). The top 20% is increasingly distanced from the rest of the population, with incomes that have nearly tripled since 1995. On the other end of the scale, the incomes of the bottom 20% have remains practically unchanged since the war, 17,400 Rwandan francs in 1996 versus 18,900 RWF in 2006.

The perception of the economic situation has markedly deteriorated in comparison to the pre-war perception (Ingelaere, 2007: 28). Furthermore, "there is a general perception that policies are not based on the needs and will of the population and even run counter to possible improvement, especially related to the economic situation" (Ibid: 34). 1995-2006 trends show that Rwanda is getting to the end of its capacity to reduce poverty by growth alone- "if currents trends are confirmed, Rwanda might not be able to recover the pre-war poverty levels within the next five years" (UNDP, 2007: 20).

Rural development has emerged as the greatest challenge to be overcome to guarantee social and political balance. Between 1994 and 2004, the rural population grew at an average annual rate of 4.4% while cultivable land area remained

virtually the same. The availability of land has therefore continued to decrease with time. The modernisation of the agricultural sector strengthens already considerable inequalities while alternative activities have not yet been proposed. Lastly, agricultural specialization could increase the dependence on imports. The foreign balance of goods and services has deteriorated since 1997.

The progress of economic governance places the country in a good position with financial backers so as to get public aid for development. The World Bank estimates that "the totality of aid flows could double over the 2007-2020 period in relation to their current level of around 15% of GDP, on the condition that the government continues to apply healthy policies" (World Bank, 2007 b: 6). In 2007, Rwanda received increased budgetary support from the African Development Bank (ADB) and the GoR looked for other direct budgetary support funders. The "aid market" enables substantial capital injections into the economy.

However, the number of poor has increased which means that aid is missing its primary objective of poverty reduction. In 2005, 44% of official aid (100%=\$497m) was granted in the form of direct budgetary support (\$219m). Out of this sum, 2% went to social protection and 1% to agriculture. Defence and public order received 12%, as much as health and education combined (UNDP, 2007: 56: ODA Distribution Per Sector, Including General Budget Support, 2005). In other words, the funds going to Rwanda are not correctly aligned to development objectives, are not adequately directed towards the poor and are not managed in an effective manner. Sectors such as agriculture, health and education should see the amount of aid they currently receive double or triple.

In total, some 10% of public development aid (sector and budget together) is given to the security sector, to the sum of \$50m per year. Between 2004 and 2005, although the aid total increased, the percentage of aid given to direct budgetary support went from 27% to 44% (UNDP, 2007). By acting in this manner, funders are largely endorsing the policy direction adopted by the GoR. Then, to consider defence

and security as strategic sectors is also a way for the GoR to wrongly identify a threat and to confuse priorities.

Data regarding disparity between Hutu and Tutsi are not available. However, the greatest disparity in Rwanda relates to the rural-urban divide, political elites in Kigali benefit more from economic growth while the effects of redistribution are very little for the rural masses. Since the war, inequalities restrict the development of the domestic market and undermine all poverty reduction efforts. The worsening of inequality now risks weakening the legitimacy of the institutions and weakening social fabric even further.

However, inequality is also the area where political manoeuvre is capable of making a difference. In 2006, Rwanda received \$103m from Washington for military and economic assistance and \$65m from Britain. Financial backers therefore have a considerable means of pressure. It is up to them to reconsider the allocation of funds granted to the GoR, funds which could be used for rural development and social sectors and encourage redistribution mechanisms. In 2007, the UNDP suggested the necessity of "a detailed ODA audit in order to see how ODA flows can be aligned with the MDGs" (UNDP, 2007: 58).

When social and political exclusion are causes of war, overcoming them involves the broad and fair development of human capital.

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## Chapter 3: Justice and Human Rights

Over the last few years, the gacaca process has been a main feature of justice and human rights. The Gacaca courts system aims to find a response to the genocide disputes, which will ease the overcrowding in prisons but without resorting to impunity. Since 2003, two new concepts appeared in the new Rwandan constitution- *divisionnisme* and *idéologie du génocide*. Since then, the authorities have launched a campaign, to combat these new concepts, which has affected all Rwandans and has had a particular impact on civil rights and policies in general and on the rights of the accused. Today, human rights and freedoms are determined by a certain legal and political order which came out of the FPR's military victory in July 1994.

### 1) Judging genocide

Meting out justice for the genocide has been a major challenge. It has meant dealing with criminal acts of a very large scale. In August 1994, the then Minister of Justice, Alphonse-Marie Nkubito, rejected turning to the gacaca courts system, believing that the gacaca hearings would "trivialise the genocide" and would diminish the credibility of the sentences (HRW, 2008:13). If the guilt of certain Hutus could not be clearly proven, this would lead to widespread blame being placed on Hutus (Ibid).

Despite the intention to put on trial a very precisely defined group of suspects, the Rwandan Government authorised soldiers and other persons, who had no legal authority, to arrest persons accused of committing acts of genocide, even on the basis of a single non-verified accusation (HRW, 2008:14). The number of persons detained increased exponentially. In October 1994, approximately 58,000 people were being held at a site catered to hold 12,000. In 1998, following the repatriation of Hutu refugees to Zaire, 135,000 people were imprisoned (Ibid.)

Before 1994, there was one prison in the main town of each province. Currently, there are three prisons in each of some of the former provinces, while in others there are two. The holding capacity of each prison has been

exceeded. In 2000, the rate of detention (filling the prisons) was for example 599.8% in Kibuye and 684.8% in Kibingo (CEJP, 2000). Moreover, 20,000 to 30,000 other individuals were then jailed in local jail cells (Ibid.). Overcrowding, as well as insufficient sanitation, food and medical care, gave rise to inhumane conditions.

Genocide trials started in ordinary courts in December 1996. However, since 1998 Rwanda was getting ready to embark on another strategy to alleviate the accumulation of court cases. Gacaca courts combine modified elements of traditional practices and aspects of a conventional punitive justice system. Created in 2000, they were to be used in trying acts of genocide, excluding the most serious crimes. It was hoped that this popular and participatory system would accelerate the solving of cases, reduce the prison population and contribute to reconciliation.

The trials commenced in July 2006 throughout the entire country. The participation of the entire community was supposed to ensure legitimacy of the process and to protect the rights of the participants, which meant that the legal guarantees to ensure a fair process were unnecessary. For example, the accused do not have the right to a lawyer for gacaca trials. The oral nature of the procedure signifies that the jury does not need to present tangible proof of guilt. The willingness to close this cycle as quickly as possible has meant an acceleration of the trials. In addition, other administrative and political factors have also interfered in delivering justice, changing the very essence of the process, which was supposed to have been based on transparency.

In November 2004, the Service national des Juridictions Gacaca (SNJG) ordered local administrative agents, often members of the FPR party, to collect information pertaining to suspects. Overall, their role reduced the need for popular assemblies and judges responsible for collecting information on the accused. By working behind the scenes, these civil servants have acquired power disproportionate to their job which allows them to influence the nature and quantity of information that would be used

as a basis for the cases against the accused (HRW, 2008:21). These courts, while greatly welcomed at first by the victims and accused, have not conclusively succeeded in satisfying the parties.

## **2) The taboo of the RPA war crimes**

The defective nature of the indictment procedures illustrates well the fragility and political character of the gacaca system. Organic Law (no. 40/2000) of January 2001 institutes the gacaca jurisdictions "in charge of the prosecution and sentencing of offences constituting the crime of genocide and other crimes against humanity, committed between the 1st October 1990 and the 31st December 1994". When the gacaca jurisdictions were created, the first law (of 2001) included war crimes. But in the 2004 law this clause was removed. A public information campaign then upheld that the crimes of the APR should not be brought before gacaca jurisdictions. This means that the plaintiffs who are victims of crimes of the APR have not yet had access to justice.

At least four UN agencies and numerous international NGOs have recognised and documented violations of international Human rights law (IHR) committed by APR soldiers since 1990 (cf. HRW, 2008: 39; 96).

The conclusions that members of the APR were responsible for war crimes and crimes against humanity, taken up by the Security Council, were the basis for setting up the International Criminal Tribunal for Rwanda (TPIR). The government however, lead by the FPR, has relentlessly sought to impede the prosecution of APR soldiers by jurisdictions outside Rwanda. In 2001, when the TPIR prosecutor, Carla Del Ponte, opened enquiries into the crimes of the APR, Rwandese authorities exercised political and diplomatic pressures on her. The GoR also obstructed the travel of witnesses to the TPIR in Arusha, Tanzania. In 2003, the charge of Rwandan affairs was taken from Carla Del Ponte and confided to a new prosecutor, Hassan Bubacar Jallow. He has not yet proceeded to bring charges against APR members accused of violating IHR.

However, international arrest warrants were issued in France in November of 2006 for nine

high ranking members of the APR. The GoR immediately broke off diplomatic relations with France, and still demands the withdrawal of the warrants as a condition for taking up official diplomatic relations again. In February 2008, the Spanish judge Fernando Andreu Merelles issued international arrest warrants for 40 field officers of the APR. The Rwandese authorities confirmed that they were exploring the possibility of prosecuting this judge for "ideology of genocide" (HRW, 2008: 100-101). The Minister of Foreign Affairs called for other governments to ignore the arrest warrants (Ibid.). At the present time, they have resulted in the interviewing under caution of Rose Kabuye, following her arrest in Frankfurt in November 2008. The judges in both cases pursue their investigations.

In 2007 and 2008, the TPIR prosecutor suggested the transfer of five cases to Rwanda. Amnesty International and Human Rights Watch adopted the position that Rwandan tribunals were not able to guarantee fair trials to the defendants. In the first cases settled, the chambers of the TPIR effectively refused the requests of the prosecutor, considering that Rwanda did not offer guaranteed respect for the norms of a fair trial (see below).

## **3) Divisionism and ideology of genocide**

In December 2008, at the end of a trial embarked upon in April 2002, the ex-colonel Théoneste Bagosora was sentenced to life in prison "for genocide, crimes against humanity and war crimes". However, the hearing's conclusions did not address the unknowns who contributed to the genocide. The charge of "arranging to bring about genocide" was not used as evidence against Bagosora and his co-accused. In this sense, the most awaited judgement of the TPIR was a failure, not bringing any greater understanding of the facts. Since 1994, the TPIR has handed out more than thirty sentences but none of the accused was found guilty for the "planning" which was the very essence of the genocide.

The issue of linking the facts, the story of the genocide and the truth are at the heart of the problem of rule of law and equality before justice. The Rwandan authorities have promoted an official truth and attempt to eliminate the

opinions they consider inappropriate (HRW, 2008: 39). Non-conformist ideas concerning Rwanda's history, the war and the FPR have been put under the banner of "divisionism" and "genocide ideology" since 2003. The authorities emphasised their desire to prevent a return to community violence and so ethnic and regional propaganda as well as any other propaganda of a divisive nature is punishable by law (art. 33). "Divisionism" has been the theme of several court cases, but the decisions of justice failed to establish the meaning and scope of said crimes (cf. HRW, 2008: 36).

Between 2003 and 2008, four parliamentary commissions investigated and sentenced suspected cases of divisionism and genocide ideology. The first began in December 2002 some months before the legislative and presidential election and investigated the Republican Democratic Movement (MDR), leading to the removal of the only party capable of rivalling the FPR. MDR opposition to local government programmes such as the set up of the Gacaca courts or the Local Defence Forces was likened to divisionism. Among the international organisations accused of supporting divisionary and murderous ideas by one or more of these commission were, among others: Care International, Trocaire, 11.11.11, Voice of America, British Broadcasting Corporation (BBC), Human Rights Watch (HRW), as well as the Catholic Church and the Association of Pentecostal Churches in Rwanda. At the end of 2007, a commission noted the presence of genocide ideology in 84 secondary schools. In January 2008, the minister for education announced the introduction of a "situation file" for each teacher and student.

Although the term had been used freely for about 5 years, it wasn't until June 2008 that the parliament passed a new law which criminalised genocide ideology. However, the law worsened the already existing imprecision and confusion surrounding the expression (cf. HRW, 2008: 44). In 2006, the Senate report (Genocide Ideology and Strategies for its Eradication) noted that genocide ideology takes "the form of an often partisan and unfair political criticism" (Senate, 2006: 21), such as referring to the unpunished crimes of the FPR. In 2008, the justice minister stated that "indicting the ruling

party is a way of denying genocide" (The New Times, 05.04.08). Political and non governmental organisations seen as guilty will be dissolved. Violators could spend 10-25 years in prison, up to a life sentence for re-offenders. The risks of political exploitation are obvious.

#### 4) Justice instrumentalized

The situation of human rights is linked to this spirit of the regime and this now permanent state of tension. Ten years ago, better trained lawyers were the main improvement of the Rwandan legal system, culminating in the abolition of the death penalty in July 2007. However, the technical advances in administering justice have not changed the dynamics of the political system, where legal power is still subordinate to the executive authority (HRW, 2008: 47).

In a November 2007 report, a delegation of international lawyers put forward allegations of persistent political pressure on the legal system (International Legal Assistance Consortium, "Justice in Rwanda: An Assessment"). The nomination of judges is conditioned by political considerations with FPR affiliation and ethnic origin being taken into account (HRW, 2008: 49). Prosecutions for "divisionism" and "genocide ideology" are particularly vulnerable to political influence given the broad and imprecise nature of these laws. Judges are put under pressure by the executive authority as well as influential persons not in government. HRW documented several cases where persons acquitted by the tribunals were not released or were released only to be arrested again soon after, in violation of the orders of the tribunal (HRW, 2008: 73).

Government representatives used the legal system to sanction, forbid or limit the activities of persons considered to be "opposed" to the government and the FPR. These persons have been indicted for "divisionism" and sometimes held under arrest for long periods without being formally charged. These practices became more visible as the country came to the end of the transition and targeted the most public opponents, MDR leaders, the former president Pasteur Bizimungu and his collaborators who founded the Democratic Party for Renewal, PDR-Ubuyanja.

The lack of independence in the legal system and its exploitation not only damage the rule of law, but also the democratic openness of the regime that emerged from the transition and reconciliation. The way in which the regime attacks ideology is worrying. The GoR refuses to recognise the political nature of divisions, at least in part. Charges are brought against those who challenge the official "truth" with relation to FPR war crimes and encapsulate the abusive restrictions to freedom of expression.

This exploitation of the law has coincided with another phenomenon for the last ten years: the majority of those who represented a political threat or were released following detention have fled the country. One infamous case is that of lieutenant colonel Patrick Karegeya, the former head of external intelligence (External Security Organisation - ESO), who fled Rwanda just days after his release in November 2007.

Belgium, the Netherlands and the European Union were the main financial supporters of the legal system, but other countries such as the US, the UK, Germany and Sweden also contributed. In an exceptional case in 2007, the financial backers expressed grave concern over the murder of detainees by members of the police. Following their intervention, these murders stopped. However, in general, the financial backers rarely use their influence effectively to address the most fundamental and characteristic problems of the system (such as those laid out above). Given the range of political and financial aid, the funders should be in a position to pressure the GoR more forcefully.

Other governments found themselves having to face up to their responsibilities with the issuance of international arrest warrants for high-ranking Rwandan civil servants. Some of those indicted continued to travel outside Rwanda and some of them also took part in the UN/African Union (AU) joint forces in Darfur, which represents an additional challenge for international law.

The presupposition of international justice is that it is capable of preventing new conflicts. However, the persuasive dimension of the TPIR hasn't been employed at a regional level. Fifteen years after the genocide, the cycle of

"Rwandan" wars which began in 1990 is not over yet. An extra year, until end 2009, has been granted to the TPIR to finish its original works. The challenge of executing the second section of the task is to help alleviate the tensions and rivalries which concern the history and memory of Rwanda.

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## Chapter 4: Stabilization at a neighbor's expense: Rwanda in the Democratic Republic of Congo

### 1) 'The 'First African World War'

When the FPR entered the Rwandan capital on July 7, 1994 and rapidly took control of the whole country, a massive wave of 1.5 (million?) Hutus fled to the Kivu region. Amongst them were members of the defeated Habyarimana army and the Interahamwe militia. They settled in the numerous refugee camps bordering Lake Kivu.

Their arrival in Congo (still called Zaire at the time) was a crucial catalyst in the evolution of the complex dynamics in the region, which included local rivalries and internal conflicts which had spilled over national borders. Each country in the region has its own complicated internal issues and violent recent pasts that have become interwoven with and polarized existing tensions in neighbouring countries.

At the end of the Cold War in the 1990s, the regional dynamics took on a life of their own and provoked a murderous and destructive wave. During the two wars in the Congo (1996-1997 and 1998-2002), that followed the genocide in Rwanda, the DRC, and particularly the eastern provinces, became the battle fields of the 'First African World War', one of the most complex international conflicts in history. By the end of 1998 and the beginning of 1999, troops from Zimbabwe, Chad, Namibia and Angola had arrived to defend the Congolese government while the rebel RCD was backed by Rwanda, Uganda and Burundi.

Congo's rich natural resource deposits have played a defining role in the wars: control of certain areas came with the illegal 'right' to exploit the resources and sell them on the international market. Resource exploitation took on a life of its own, and became a reason in itself to continue the war. The result has been the collapse of Congo's state apparatus, total impunity and above all, the victimization of the local population - 5.4 million people have lost their lives, making this the most murderous conflict since World War II. Neither the transitional governments, nor elections have established institutions that can impose peace and security in the Eastern Congo.

The transitional government (July 2003 - December 2006) failed to complete the process of integrating the army. The difficult process of integrating the national forces and the establishment of a national police force remain the new government's most pressing priorities as it seeks to re-establish a state and win the confidence of the populace. The existence of non integrated armed forces on the ground remains the principal source of insecurity - and the civilian population is the first victim of this insecurity. The establishment of the Third Republic exposed the tensions and confrontations between the national Congolese army and Laurent Nkunda's dissident army. The clashes have created a series of explosive situations, not only for the democratic process in the RDC but also carrying the risk of provoking a new open war in the region. Initially, at the end of 2007, President Kabila put together a military force of 21,000 soldiers to defeat Nkunda in the Goma region, but Kabila's offensive failed to achieve its goal. New large scale military offensives, jointly conducted by the Congolese and Rwandan armies, have been launched since the end of August 2008 in an effort to dismantle and banish the FDLR and to integrate the CNDP into the Congolese army.

### 2) Eastern Congo : one or multiple conflicts?

Even if there are some very good reasons for describing East Congo as being the battlefield of the First African World War, it is impossible to state that the complexities of what has been happening in this area over the last 15 years find their origin in one single conflict.

Eastern Congo is a region where the distinct ethnic constellation is intertwined with the competition over access to the abundant mineral resources and increasingly scarce land in this over-populated region.

On top of this complex local situation stand at least three larger areas of conflict; one spans the entire country, another crosses into neighbouring territories, and the third is of international reach. These three levels of conflict are all connected, they influence and support each other, but neither of the three can simply be defined as a part of the others:

The first level is the problem of the dismantling of the Congo state, and the power struggle that ensued. From its first weeks of existence, Congo had to face centrifugal forces as well as a constitutional crisis. The country was used as a pawn on the chessboard of Cold War, the state was so badly managed that experts invented the concept of “kleptocracy” to describe it. This mismanagement resulted in a complete loss of legitimacy, a state in such a state of ruin that it needs to be rebuilt from the ground up. At the same time, there is a near total absence of resources required to be able to impose rule of law while society is marked by a culture of generalized corruption. The proceeds of the formal economy had been diverted towards unofficial networks controlled by Mobutu’s cronies. Within the population, an informal economy had developed in which the economic survival of communities depended on their creativity in finding alternatives when presented with a dysfunctional state, “creativity” essentially meaning finding ways of by-passing corrupt officials.

The second level is based on the war and genocide in Rwanda which was consequently exported to the Congo by the arrival of Rwandan Hutu refugees in the Kivu region. Among these refugees were numerous former FAR soldiers and Interahamwe militias who used Congo as a rear base to organise “hit & run” operations back in Rwanda. In 1996, Rwanda launched a military operation into Congo in order to dismantle the refugee camps and stop the “hit & run” operations. This military campaign resulted in the overthrow of Mobutu’s regime in May 1997, and since then Rwanda has been a major player in Congo, both through its troops present in the country and through its network of Congolese allies. The continued presence of Rwandan armed groups on the ground and the support Rwanda gives to Congolese rebel movements is a destabilizing factor that causes many of the sufferings of the Congolese population and prevents the proper functioning of the Congolese institutions.

This destabilisation has been made worse by Ugandan and – to a lesser degree – Burundian involvement occurring at the same time.

Thirdly, there is the international competition surrounding natural resources in DRC. The

looting of resources has been a permanent feature throughout the bloody history of the country. The ravages of slavery were followed by the terrible exploitation of the country by the Leopoldist state (1885-1909). When Belgium was granted authority over Leopold's Congo estate, the exploitation of natural resources became organised within a far more classical colonial system. Since the 1970s, the exploitation of natural resources has slipped out of control of the Congolese state, being cornered by parallel and illegal networks. Illegal exploitation was not created by the wars of the 1990s but they contributed to reorient the looting process towards Uganda and Rwanda : Kampala and Kigali have become major hubs for informal commerce dealing in raw materials, often extracted by small scale producers. Through East African middlemen this loot is traded to the Indian subcontinent and the Arabic countries where it then reaches the world market. This illegal exploitation and trading is directly linked to the prevailing lawlessness as well as the sense of economic and political impunity in the country.

### **3) From a culture of violence to total impunity**

Laurent-Désiré Kabila overthrew Mobutu with the decisive help of the Rwandan army which wanted to put an end to ex-FAR and ex-Interahamwe activities from Congolese territory. In 1996, when the Congolese rebels and Rwandan soldiers took Bukavu (on October 30, 1996) and Goma (on October 31st), hundreds of thousands of Hutus refugees that had been living in the area, fled to the interior of the country. In the months that followed, the world gradually discovered that hundreds of thousands of people were surviving in makeshift camps in the jungle, living in dreadful conditions. Since no independent observers or humanitarian agencies were present in the area, the refugees were defenceless against the Congolese rebels and the Rwandan army, who proceeded to hunt down their prey and carry out widespread massacres without being hindered in any way. At the beginning of February 1997, the European commissioner for humanitarian aid, Emma Bonino, reported on Tingi-Tingi camp, which was sheltering 200,000 refugees. Ms. Bonino estimated that an equal number of refugees were wandering around in the vicinity of the camp. On April 24th, 1997, the

first humanitarian workers were able to reach Kasese refugee camp, 25 km south of Kisangani, but they found no trace of the 55,000 Rwandan refugees who had been reported to be there. A few days later, Médecins Sans Frontières published the results of their field work in Shabunda where men, women and children had been killed on an extensive scale. They note that, for the Congolese Rebels and the Rwandan expeditionary force, all refugees are considered to be enemies and treated likewise. To this day there has never been an accurate death toll from this period of massacres, but Ms. Ogata, who was High Commissioner for refugees at that time, has stated that she considered the UNHCR estimate (300,000 dead) to be fairly close to reality.

After Kinshasa was taken on May 17, 1997, several strategic positions close to the new president Kabila were occupied by senior Rwandan politicians and army officers. At the beginning of 1998, there was a profound change in relations between Kabila and Rwanda: Kabila found himself up against his public opinion that was hostile to the idea that a significant part of the country's affairs was being managed by its neighbouring country. In July 1998, Kabila dismissed the Rwandan politicians and officers in the administration and army, and on August 2nd another war broke out.

Between the start of 1999 and March 2001, investigations into the massacres were carried out by the American NGO International Rescue Committee (IRC) in various parts of Eastern Congo. In May 2000, by extrapolating their results, the authors of the investigations estimate that in this area (North- and South - Kivu, Maniema, Oriental Province and Northern Katanga) with a population of around 20 million people, over 2.3 million people had died since August 1998. Three quarters of these deaths, i.e. 1.7 million were in excess of the standard death rate. In 2001, experts estimated that the number of excess deaths was around 2.5 million people, out of these 350,000 were to be attributed to acts of violence committed by the various factions of the war. Most of the other deaths are attributed to factors connected with the war: the destruction of infrastructures, the spread of infectious diseases (in particular AIDS), lack of supplies... IRC's last report about the

death rate (January 2008) highlighted the number of people, 5.4 million, who had died in the Congo since 1998, directly or indirectly because of the war.

Obviously it is not possible to identify the exact number of people who died during that period, neither is it possible to establish for how many of these dead Rwanda and its Congolese allies are responsible. But it is clear that Rwanda carries the main responsibility for the outbreak of this war and for it being carried on. It became quickly clear, almost from the outbreak of the war, that the main objective was not to fight the Hutu rebels but to gain control over the country's mineral resources -- mainly coltan (columbite-tantalite), diamonds, copper, cobalt and gold -- and bring them back to Rwanda in order to sell them on the world market.

#### 4) The militarization of the economy

Before the withdrawal of Rwandan government forces in September 2002, the Rwandan Patriotic Army (APR) [(renamed the Rwandan Defense Forces in June 2002)] and its ally [the Congolese Rally for Democracy-Goma] RCD-Goma controlled the entire South Kivu and Maniema provinces, as well as most of North Kivu, Kasai-Oriental and Oriental Province. Notably, control extended to Kisangani in Oriental Province, the third biggest city of the Democratic Republic of Congo.

RCD-Goma claims political and military authority in these provinces and has assumed local administrative functions such as levying customs duties and business fees. However, its claim is weak from a military perspective, as control is highly dependent on Rwandan troops, which are superior in strength and number, particularly in the country's interior. Behind the scenes, Rwandan government agents exert administrative, political, military and economic control of the region (Amnesty International 2003).

A three-year research project conducted by a panel of experts mandated by the Security Council of the United Nations in 2000 revealed that a sophisticated network of high-ranking economic, military and political authorities, in collusion with various rebel factions, intentionally kept the conflict going in order to maintain its grip on the country's natural

resources. In a series of reports, the panel elucidated the vicious circle of conflict that has taken hold of the Congo, each faction pursuing war in order to maintain control over natural resources.'

In Rwanda, within the Département de la sécurité extérieure a "Congo Desk" was created in order to manage the proceeds generated from exploitation of natural resources in eastern DRC. In March 2002, Deus Kagiranez, former Army intelligence officer, member of the Congo Desk and soon to be elected representative, testified in front of a Belgian Parliamentary Committee (see chapter on international investigations) that dealers in minerals and other resources taken from the Rwandan-occupied territories of the DRC made frequent appearances at the Congo Desk. He testified of the existence of a slush fund that « allowed [the Rwandan army] to conduct operations in the Congo » and whose income did not appear in official State accounts. This system allowed military and political leaders to conceal large sums of money. « The contribution of the Congo Desk to Rwandan military expenses would have been in the order of 320 million dollars. Activities financed by Congo Desk income determined in large measure Rwanda's foreign policy and directly influenced national decision making in numerous arenas. Nevertheless, the transactions giving rise to these revenues have so far avoided scrutiny from international organizations. »

Coltan (columbite-tantalite) was undoubtedly the chief mineral resource at that time. According to a UN Panel of Experts, « The majority (at least 60-70%) of columbite-tantalite exported from eastern DRC is extracted under direct supervision by APR officials overseeing mining operations, then transported via aircraft from nearby airstrips directly to Kigali or Cyangugu. No taxes are levied. Aircraft owned by Rwandan military, arms dealer Viktor Bout, and several small airlines have been used to transport the coltan. The APR maintains control over most coltan mines where deposits are significant, tantalum content is high, and local airstrips are accessible. On extraction sites managed by APR, mineral extraction and transport and domestic chores were performed by forced labour. According to numerous

sources, forced labour was largely comprised of Rwandan prisoners working as contract labourers. » (Report by UN Panel of Experts, October 21, 2002, (S/2002/1146), p. 17).

On Rwandan-controlled mining sites, civilian labourers were forced to work without pay ; miners who did receive pay were required to sell their output to military officials at preferential rates. Rwandan troops hired themselves out as private guards to mining concessions operated by foreign speculators in exchange for a cut of the profits. With the exception of a small fraction of mining production that was traded locally, the large majority of production controlled by Rwandan forces was exported directly to Rwanda. According to several sources, Rwandan military officials and business professionals with close ties to Rwanda acted as directors and shareholders in the majority of local mineral trading in Goma and Bukavu, and were directly involved with the Congo Desk in exporting coltan to Rwanda and international markets. Until Rwandan forces withdrew at the end of 2002, coltan export to Rwanda was carried out on a large scale despite its drop in price. A remarkable analysis of the extraction, trafficking and marketing of various natural resources was conducted by certain interested NGOs (such as Global Witness, Ipis, Raid) and of course by the UN Panel of Experts in its various reports.

#### **5) Maintaining a war economy after the war**

During the war, income obtained from natural resources looted in Congo were crucial, not only for stabilising the Rwandan economy but also for the personal enrichment of political, military senior executives as well as in the business sector. Whilst preparing its withdrawal, Rwanda set up economic control mechanisms that did not require a clearly established presence of the Rwandan army. In part state-owned companies, Rwandan businessmen from Kigali were sent in to take the place of Congolese management, in order to ensure that proceeds would continue. Entire units of the Rwandan Army, specialised in laying mines, remained in the country but did not wear their uniforms and pursued their activities under the guise of trade exchanges. Certain sources have told the expert group that during this period, the Rwandan army was making efforts to obtain a large number of

Congolese passports in order to offer a fictitious identity to its officers and enable them to stay in position in strategic sites of the Democratic Republic of the Congo. The group has become aware of other tactics used to conceal the continued presence of Rwandan or Rwandan-backed armed forces in the country. Reliable sources have informed the group about initiatives undertaken by Congolese senior officers loyal to Rwanda, such as major general Sylvain Mbuki, who are in the process of reorganizing the RCD-Goma militias. Their aim is to integrate a larger number of APR soldiers into the National Congolese army and in local defence forces in order to ensure that they remain globally pro-Rwanda.

During the transition period, the most important instrument which has been used by Rwanda to maintain a culture of impunity in Eastern Congo, has been the CNDP rebel movement (Conseil National pour la Démocratie et la Paix). The last report from the United Nations experts panel (December 2008) describes in great detail how this rebellion is supported by Rwandan business circles and by political and military authorities within Rwandan government.

The joint Congolese and Rwandan army operation that took place between January 20 and February 25, 2009, are the result of renewed diplomatic ties between the two countries. They were meant to signal the improved climate between the two countries, achieving the dismantling of the FDLR militias (Democratic Forces for the Liberation of Rwanda) and the integration of the CNDP rebels into the Congolese army. Sadly, it has only obtained very limited results. The first estimates are that a maximum of 10% of FDLR fighters have been neutralised. The CNDP has undoubtedly been weakened by the arrest of its historic leader Laurent Nkundabatware, but the integration of the CNDP combatants into the regular Congolese army has only been superficial.

The presence of Rwanda in Congo in regard to its own political and economic stabilisation has been a constant since 1996 ; it remains to be seen how Rwanda will defend its strategic interests in the near future, knowing that the mining resources in Eastern Congo are crucial

for the budget of the Rwandan state as well as for the personal wealth of a large part of its political and military elite.

## Conclusions

The 1994 genocide in Rwanda ranks among the major crimes of modern times and even of the history of humanity. In three months, from early April to late June, this beautiful "country of thousand hills" was turned into a giant mass grave. Once the killing stopped, everything needed to be rebuilt from scratch. The international community is still uneasy about its cowardly attitude during the genocide, ashamed that it stood by and did nothing, knowing it could have saved a great number of Rwandans if only it had acted in time.

When the FPR put an end to the genocide and took power in 1994, it inherited a country that was in a state of non-existence. All institutions normally associated with a state had ceased to exist. All upper level management and educated people were either dead or had fled. In the face of such a situation, the Rwandan government has realized an undeniable effort in order to rebuild the country and reassert the authority of the state. Only a few years after the genocide, most state institutions had been rebuilt and were functioning properly. These efforts are even more remarkable when one compares post-genocide Rwanda with its neighbours and, more generally, with the majority of other countries in sub-saharan Africa : government institutions in Rwanda are in place and work generally well, Rwanda is cited as an example of good governance (at least, from a technocratic point of view) and the level of corruption is relatively low.

The initial sentiment among the international community was that a certain leeway should be granted to the new regime, confronted as they were by the enormous task of rebuilding their country after the genocide. The consensus was that the strict rules governing the population and political activity should therefore be viewed as inevitable "bumps in the road" for a promising regime and that things would eventually "ease up". That was the unspoken promise. Has the GoR honoured this "promise" which led to the leniency of many financial backers?

The new political order, established after the military victory, demanded that those

responsible and the "brains" behind the genocide be condemned at Arusha. The most eagerly awaited case in the history of the TPIR – the conspiracy case of Bagosora and the co-accused -- did not reach an agreement on the "count of indictment" in view of committing genocide. Bagosora was recognized as the architect of the genocide, but the TPIR has not recognised any higher authority behind it. In this context, truth remains the main issue in the Rwandan drama, far more important than the issues of power or economical wealth.

The reconciliation process has been a victim of this issue with truth. When a South African delegation came to talk about their experiences, the GoR representatives' response was that Rwanda was going through a different experience. They created, therefore, a Commission for unity and national reconciliation in 1999. Unity has come to mean consensus, and consensus has come to mean the imposition of the ideology of a single party (ICG, 2001). Thus the fight against ideology has become the defence of this official truth and it is used as the main weapon to keep the opposition down. The struggle continued, the civil war is not completely over, and the reconciliation has come to a standstill.

The authorities have set up a process of justice and of commemoration of the genocide, but have prevented any mention of the crimes committed by the FPR and the government forces after July 1994, for example during the "guerre des infiltrés" (infiltration war) in 1997 and 1998. As a consequence, the past has not been properly confronted, meaning that memories have not been able to heal as they should have done and time has not been able to do its job. A majority of Hutus have the feeling that they are living through a silent political process in which their entire community is disavowed. Not all dead have been honoured and many atrocities are not remembered. The children, the "heirs" of this uncounted dead, the descendants of these nameless and unburied bodies, are being seen as living testimonies to the fate of their fathers. As African author Ahmadou Kourouma wrote about the survivors

of the massacre "The children are the walking gravestones of their fathers".

National history is the object of continuous quarrels. For the FPR, the ideology of genocide goes back to the 1959 revolutionaries. A recent parliamentary commission has removed from the educational system the Rwandan history books used in the first year classes of secondary school, as well as the reading books and Kinyarwanda grammar books for 11-13 year olds, since their content was deemed to be too ideological. This climate of tension has a strong impact on education. Fearing to be accused and being deprived of history and language textbooks, teachers feel paralysed and some prefer to leave the profession altogether. Today, the history of Rwanda taught in secondary schools starts from 1994.

The MPs have recommended burning all these textbooks. Several teachers have however asked to keep them, as testimonials so as not to remove all traces of the past. The country has been French-speaking for more than a century yet in October 2008 the authorities announced their decision to impose English as the language of education from primary to university level. This decision illustrates the double-edged nature of the power exerted by the authorities. On one hand, decisions can be taken at higher level, by a small closed circle of people, and are imposed in an authoritarian, top down manner, from one day to the next. On the other hand, the authority show their will to impose a rupture in the collective memory. This will is evident in many areas: that of ethnicity, that of Ingando solidarity camps, which amount to intensive ideological training sessions, but also in the field of history and language. In all areas, there is a will to re-educate mentalities and ways of thinking. Political liberalisation is conditioned to the changing of mentalities, that is to say the realisation of the predetermined ideological objectives defined by the FPR ideologues.

Making sure that justice is rendered for the genocide is a big responsibility. It is understandable that there is a desire to finish this task as quickly as possible. However, whatever the satisfactions or the existing disapproval concerning the way the justice has been handed out, the primacy of the political considerations throughout this process will

remain a powerful heritage for the future. To get past this, the GoR must give Rwandan society a chance to self regulate, to assume its responsibilities regarding the genocide and to lay the foundations of reconciliation, without imposing by force the expressions and modalities of this reconciliation process.

Since 1994, Rwanda has become a regional power, capable of maintaining an army of more than 60,000 men, and able to conduct military operations far beyond its borders. But whatever their motivation, it is clear today that these investments in security have not helped regional security. The Rwandan army is involved in an economic and military adventure in Congo which has led to growing anti-Rwandan feelings. Rwanda has been, and remains to this day, a major player in a dramatic period of Congolese history. Rwanda carries a heavy responsibility in the establishment of a culture of violence and total impunity in Eastern Congo, where sexual violence has been used as a weapon of war, among other massive violations of human rights. Rwanda has deliberately militarized the economy of the Kivu region and diverted towards Kigali the flows of illicit trade in natural resources, an informal economy that only exists because official Congolese authority has been dismantled in the area. The Rwandan economy has become dependant on the revenue obtained by trading mineral resources that do not exist on its own soil. The national budget as well as the lifestyle of the political and military leaders depend upon the transit and trade of Congolese natural resources via Rwanda.

The promotion of commercial agriculture has renewed forms of structural poverty and inequality. The rural masses are left to fend for themselves whilst elsewhere, in the social protection sector, less than 25% of government expenditure (not even one dollar per person) reaches vulnerable groups other than genocide survivors (UNDP, 2007). As a comparison, 40% of the EU budget is devoted to agriculture and rural development. The EU even has "balancing out" funds. The marginalisation of the weakest, yet again, emphasises the feeling of helplessness and structural violence.

Furthermore, many GoR actions, have contributed to the restriction of the freedom of

expression and freedom of association of national and international NGOs. The instrumentalization of the notion of "divisionism" is obvious in many parliamentary reports since 2003. In addition there is the very restrictive law on associations, which stipulate that the Minister of Justice can suspend the activities of an organisation "when she/he discretionally judges them a threat to the law, public order or good moral standards of the country" (Law no. 20/2000). Researchers from international NGOs such as ICG or HRW are no longer allowed to enter Rwanda. The GoR wants civil organisations to be mere service providers, leaving them with little space for advocacy.

In January, the Europeans were not able to agree on the message to send to the GoR after the legislative elections of September 2008. As long as the observation mission does not record what has been observed and as long as impunity is assured, the regime will be less and less inclined to open a dialogue with the opposition. It is worrying that a European institution is unable to clearly state its democratic requirements, especially considering the fact that the iniquity of the political representation, the exclusion and inequalities threaten, in the long term, the very stability of the country. The only realistic approach is to support those who, on both sides, try to maintain a political dialogue.

The international community has always had great difficulties in reaching a common position on Rwanda, which has largely contributed to its paralysis during the 1994 catastrophe and the resulting problems in dealing with its consequences. The European Union has not been able to build on the fact that it is - together with its member states - the biggest financial backer in order to assert some kind of political influence in Kigali. While it is a main financial player, the European Union remains a political outsider, even if some member states (like Great Britain) are considered loyal allies by the Rwandan authorities.

The positive influence the EU could exert on the necessary changes in Rwanda will depend on its ability to find a new tone, a new form of action and a new content for a structured dialogue with the Rwandan regime. This dialogue needs

to refer to the commitments and mechanisms that have been elaborated by the country itself (for instance the Pact on Security, Stability and Development in the Great Lakes Region, that was signed by heads of state, in Nairobi, on December 16, 2006 during the second International Conference on the Great Lakes Region).

This dialogue needs to be the framework in which every issue, including apprehensions and worries can be put on the table and debated in a transparent manner. But such a process will not be easy to achieve, judging by the tensions that surrounded the report on the recent elections by the EU observing mission...

## Abbreviations and Acronyms

APR: Armée patriotique rwandaise = Rwandan Patriotic Army

WB / BM : Banque mondiale = World Bank

CEJP: Commission épiscopale justice et paix = Episcopal Commission for Justice and Peace

CNDP: Centre national de développement des programmes = National Centre for Programme Development

\* CNDP: Conseil national pour la défense du peuple = National Council for the Defence of the People

EAC: East African Community - Communauté d'Afrique de l'Est

EC: European Commission - Commission européenne (CE)

FAR: Forces armées rwandaises = Rwandan Armed Forces

FDLR: Forces démocratiques de libération du Rwanda = Democratic Forces for the Liberation of Rwanda

FPR: Front patriotique rwandais = Rwandan Patriotic Front

GBS: General Budget Support

GoR: Gouvernement du Rwanda = Rwandan Government

HCR: Haut Commissariat aux Réfugiés = UN Refugee agency

HRW: Human Rights Watch

ICG: International Crisis Group

LRA: Lord's Resistance Army - Armée de résistance du seigneur

MDG's: Millenium Development Goals - Objectifs de développement du millénaire (ODM)

MDR: Mouvement démocratique républicain = Republican Democratic Movement

EU EOM: Mission d'observation électorale de l'Union européenne = EU Electoral Observation

ODA: Official Development Aid - Aide officielle au développement

OUA: Organisation de l'unité africaine = Organisation for African Unity

ONG: Organisation non gouvernementale = NGO/Non-Governmental Organisation

ONU: Organisation des Nations Unies = UN/United Nations

PDR-Ubuyanja: Parti démocratique pour le renouveau-Ubuyanja = Democratic Party for the renewal of Ubuyanja

PIB: Produit intérieur brut = GDP/Gross Domestic Product

PL: Parti libéral = Liberal Party

UNDP / UNDP: Programme des Nations Unies pour le développement = UN Development Programme

PSD: Parti social démocrate = Social Democratic Party

RDC / DRC : République démocratique du Congo = Democratic Republic of the Congo

TPIR / ICCR: Tribunal pénal international pour le Rwanda = International Criminal Court of Rwanda

UE /EU : Union européenne - European Union

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