

Rwanda

In 2005 Rwanda expanded its system of people's courts (gacaca jurisdictions) from one tenth of the territory to the whole country. Established to try crimes from the period of the 1994 genocide, the jurisdictions were supposed to draw their legitimacy from popular participation, but many Rwandans did not trust them and boycotted the sessions. Some judges ignored gacaca rules by jailing hundreds of persons in preventive detention or for false or incomplete testimony. Since few appellate gacaca courts exist yet, most of those jailed have no recourse. As the jurisdictions started pre-trial inquiries throughout Rwanda, some 10,000 Rwandans fled to surrounding countries, many saying they feared false accusations and unfair trials.

Throughout 2005, authorities pursued the elusive goal of national unity, continuing earlier campaigns against "divisionism" and "genocidal ideology." On occasion they equated "genocidal ideology" with dissent from government policies or with opposition to the Rwandan Patriotic Front (RPF), the dominant party in the government.

In September 2005 the government published a law on land tenure, the result of several years of debate. Although guaranteeing Rwandans (and foreign investors) the right to own land, the law also grants government far-reaching powers over land use, potentially subjecting owners to loss of land without compensation.

Gacaca Jurisdictions

Meant to combine customary practices of conflict resolution with punitive justice, gacaca jurisdictions began on a pilot basis in 2002. Many jurisdictions failed to win public trust for various reasons: hundreds of judges were themselves accused of crimes; some witnesses refused to speak or to speak truthfully; and the jurisdictions were prohibited from examining crimes by RPF soldiers, leading to perceptions that they delivered one-sided justice. Authorities reformed the jurisdictions in 2004, simplifying the structure and reducing the number of judges on each panel, but these changes had barely been implemented when officials announced plans for further reforms in September 2005. Pilot jurisdictions have tried fewer than three thousand cases. Trials have yet to begin in most of the country and will be further delayed by the proposed reforms. In 2005 authorities said that an estimated 761,000 persons (just under one half of the adult Hutu male population at the time of the genocide) would be accused of crimes. Officials aim to complete trials by 2007, an unrealizable goal at the current rate of proceedings. The reforms put the system under closer administrative control; e.g., instead of the popular assembly drawing up lists of accused persons, administrative agents now do so. Local officials are permitted to fine and otherwise sanction citizens who do not attend required sessions.

In September 2005, the national prosecutor's office arrested Guy Theunis, a priest, journalist, and human rights activist, and submitted the case it had prepared against him to a gacaca jurisdiction. As in many gacaca cases throughout the country, evidence was insubstantial, yet judges decided Theunis, a Belgian citizen, should be tried for inciting genocide and sent him back to prison. Belgium asked that the case be transferred to Belgian hands. He was returned to Belgium in late November 2005 for possible prosecution.

In July authorities provisionally released nearly twenty thousand detainees who had confessed to genocide or who were elderly, ill, or who had been minors in 1994. This brought to nearly forty-five thousand the number released since 2003, all of whom will supposedly stand trial. Genocide survivors, who feared new attacks or attempts to impede justice by those released, protested the decision.

In September some 750 persons convicted of genocide began performing community service labor as part of the sentence to be served for their crimes. For administrative convenience, all were brought to work in one place, contravening the original intent—to compensate for damage done in locations where the crimes had been committed—of the labor service program.

Most of the 10,000 Rwandans who fled in 2005 crossed into Burundi, where they were initially welcomed. But later, Burundian authorities cooperated with Rwandan officials to return them to Rwanda against their will. Widely criticized by international partners for violating international refugee conventions, Burundian authorities nonetheless decided in October to send back three thousand other Rwandans still in Burundi.

Other Judicial Issues

In a landmark decision in May 2005, the High Court issued a writ of habeas corpus for the first time. When authorities failed to produce the person named in the order, the court held a minister, the national prosecutor, and national police commissioner in contempt, but vitiated the decision by concluding that the court had no authority to impose penalties on the officials. Authorities continued to detain persons without charge in violation of Rwandan law, including Col. Patrick Karegeya, an officer once close to President Paul Kagame, who was held for five months. In March an appeals court affirmed the conviction of newspaper editor Charles Kabonero for defaming an official and increased his penalty to a one-year suspended jail term and a hefty fine. It failed to affirm a promising lower court ruling limiting “divisionism” to certain forms of public action, thus missing the opportunity to restrict future use of this vague charge against others. In May the High Court found opposition politician Leonard Kavutse guilty of inciting “divisionism” and sentenced him to two years in jail. It ignored Kavutse’s claim that he had confessed after being tortured, and excused authorities who had detained him illegally. In late October the Supreme Court began hearing an appeal in the cases of former President Pasteur Bizimungu and seven others, convicted of inciting violence and other charges in trials marked by insubstantial evidence and many due process violations.

Divisionism and “Genocidal Ideology”

Following 2003 and 2004 parliamentary reports attacking political opponents of the RPF and several nongovernmental organizations (NGOs) for “divisionism” and “genocidal ideology,” the Senate in 2005 commissioned a study, as yet unpublished, to identify such ideas among international NGOs and scholars. Officials interrogated and intimidated two former presidential candidates after radio broadcasts in which they voiced doubts about gacaca. As high-level officials focused on “genocidal ideology” in speeches and ceremonies, Rwandan and international NGOs tailored their activities to avoid confrontation with authorities. Human rights organizations, particularly hard hit by 2004 attacks, avoided taking stands likely to draw official ire. Authorities refused official recognition to the Community of Indigenous Peoples in Rwanda (CAURWA), which defends the rights of the Batwa minority (some 30,000 people), saying its ethnic focus violated the constitution. Officials interrogated and detained journalists who criticized the government and seized one issue of a newspaper, refusing to allow its distribution.

New Land Law

The long-awaited land law issued in 2005 is meant to transform a jumble of small, fragmented, and minimally productive plots into a more prosperous system of larger holdings producing for global, as well as for local, markets. National authorities are to determine how land holdings will be regrouped, which crops will be grown, and which animals will be raised. Farmers who fail to follow the national plan may see their land “requisitioned,” with no compensation, and their land would be given to others. Such centralized control of land use, characteristic of some colonial and post-colonial regimes, marks a radical departure for Rwanda.

The law legitimates “land sharing” which requires land owners to give a part of their land without compensation to others designated by authorities. Some farmers who resisted the policy when it was begun in the 1990s were punished by fines or jail sentences; the policy remains the source of many disputes. The law also affirms the policy of obligatory grouped residence under which persons living in dispersed homesteads must move to government-established “villages” (*imidugudu*). When implemented on a large-scale in the late 1990s, authorities in some cases used force, fines, and prison terms to make Rwandans relocate. At least two *imidugudu* were created in northwestern Rwanda in 2005, leading to land loss for local farmers. The law claims to accept the validity of customary rights to land, but rejects the customary use of marshlands by the poor and abolishes important rights of prosperous landlords (*abakonde*) in the northwest, the home region of the previous regime.

Key International Actors

In late 2004 the United Kingdom and Sweden suspended aid to discourage Rwandan interference in the Democratic Republic of Congo but took no similarly strong stands on human rights issues. Although the United States criticized shrinking political space at the end of 2004, other donors rarely voiced public

agreement with this assessment. In 2005, some donors funded civil society programs meant to promote human rights but failed to provide corresponding political support.

Generally applauded for its economic growth (with little recognition of the dramatically widening gap between rich and poor), Rwanda reached the completion point for Heavily Indebted Poor Countries, as designated by the World Bank and International Monetary Fund, and was rewarded with \$1.4 billion dollars in multilateral debt relief, followed shortly after by forgiveness of some \$90 million owed to the Paris Club nations.

Rwanda, one of the first countries to undergo assessment by the peer review mechanism of the New Partnership for African Development (NEPAD), received a generally favorable report but was criticized for refusing recognition to CAURWA, mentioned above. In response, Rwanda agreed to discussions with CAURWA, but with no result by late in the year. Increasingly important in Africa-wide politics, Rwanda provided troops for the African Union peacekeeping force in the Sudan.