

**Written Remarks for Tom Lantos Commission Briefing: Rwanda Human Rights and Political Prisoners
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Rwanda's recovery from its post-genocidal society 25 years ago to the tourist destination it is becoming today is remarkable and the Rwandan people and the government certainly deserve credit for the country's peaceful economic comeback. However, this economic and social recovery has served to mask a myriad of government violations of Rwandans' civil and political rights—perhaps, because no one likes to peek behind the curtain of what appears to be a successful comeback story. But, when we do pull the curtain aside to take a closer look at what's been going on, we find that Paul Kagame's administration has been systematically cracking down on independent voices who dare to critique his government.

Although there have been reports of government critics being killed—and speculation that these extra-judicial killings are political assassinations¹--much of the persecution against dissidents comes in the form of arbitrary detention and its attendant ills so that it what I'm going to be focusing on today. Unfortunately, it's difficult to accurately assess how many political prisoners exist in Rwanda today, though one report by Human Rights Watch estimated that 104 individuals were arbitrarily detained by the military between 2010 and 2017—many targeted for their suspected association with opposition or terrorist groups.² This report also cautioned that the actual number is much higher than what they were able to document. My organization, Freedom Now, currently represents five prisoners of conscience in Rwanda, but we know this is just the tip of the iceberg.

Arbitrary detention of government critics is possible because the Kagame Administration exercises significant control over the country's judiciary. As far back as 2008, Human Rights Watch reported that "Judicial authorities operate in a political context where the executive continues to dominate the judiciary and where there is an official antipathy to views diverging from those of the government and the dominant party."³ Today, there is some debate over how independent Rwanda's judiciary actually is, but human rights observers generally agree the outcomes of politically-sensitive cases appear predetermined.⁴ In practice, this means that government critics do not enjoy their due process and fair trial rights. Government critics may be arrested without warrants and the courts play fast and loose with *habeas corpus* rights. Prolonged pre-trial detention is common. Often, defendants are not given prompt confidential access to their attorneys. And, once we get to the trial stage other due process issues emerge; such as failing to allow defendants access to the evidence against them; coerced testimony by prosecution witnesses; incredibly lengthy and disproportionate sentences; and, of course, the use of confessions gleaned by torture.

One case that exemplifies many of these violations is that of Diane and Adeline Rwigara. Diane Rwigara is a political opposition leader who, in May 2017, announced that she would run in the upcoming presidential election against President Kagame. Within 72 hours of this announcement

¹ E.g., <https://www.bbc.com/news/world-africa-26752838>

² https://www.hrw.org/sites/default/files/report_pdf/rwanda1017_web_0.pdf

³ http://www.hrw.org/sites/default/files/reports/rwanda0708_1.pdf.

⁴ E.g. <https://www.state.gov/documents/organization/277279.pdf>

alleged nude photos of Diane were posted on social media and later the National Electoral Commission barred her from participating in the election. On August 29, 2017, Diane, her mother Adeline and her sister Anne were detained under house arrest in a violent incident where the police ransacked the Rwigara house and badly injured Adeline's leg. No warrant was presented. For three days the Rwigaras were held in handcuffs at their house and for three weeks the police prevented them from accessing an attorney. On September 23, 2017 the police formally arrested Diane, Anne and Adeline on trumped-up charges and held them incommunicado; they didn't see a judge for a *habeas corpus* hearing for a month. When they did, Anne, who is a US citizen, was released but Diane and Adeline were ordered to remain in pre-trial detention, where they remained for more than a year until their release on bail in October 2018—we think as a result of international pressure.

Diane and Adeline's trial has been ongoing in the past few weeks, although the prosecution has allegedly failed to share the full case file with Diane and Adeline. The courtroom is open, though it appears that the attendees are required to have their photos taken upon entrance to the courtroom—which I'm assuming is an intimidation technique. The charges that Diane and Adeline face are serious—inciting insurrection and forgery for Diane (Articles 463, 609 and 610 of the Penal Code) and discrimination and sectarian practices and inciting insurrection for Adeline (Articles 136 and 463 of the Penal Code). The verdict is expected to be announced this Thursday, December 6 and if convicted both women face up to 22 years in prison: a hefty penalty to pay for trying to run for president—or for being the mother of a woman brave enough to challenge President Kagame.

I also want to touch on today the endemic use of torture against persons in detention; in fact, in its most recent human rights Report on Rwanda, the US Department of State listed torture and cruel, inhuman or degrading treatment or punishment as one of the most significant human rights issues facing the country (along with arbitrary detention and harsh prison conditions).⁵ The Human Rights Watch report I previously mentioned noted that many of the 100+ illegally detained individuals whose cases they profiled had been tortured during an interrogation.⁶

Torture has unfortunately come up several times in Freedom Now's own case work. In the case of Francois Kabayiza—who was arrested in order to pressure him to testify against his employer and alleged government critic Frank Rusagara--Francois was allegedly tortured so badly that he was barely able to stand at his trial. And, although torture is a crime in Rwanda and although Rwanda has ratified the Optional Protocol to the Convention Against Torture, perpetrators act with impunity. No one has been brought to account for the abuse inflicted upon Francois. When the UN Committee Against Torture raised concerns about widespread torture allegations in 2017, the government denied and obfuscated the seriousness of the problem.⁷

Of course, even if a detainee is lucky enough to avoid torture or abuse while in custody, the prison conditions may be harsh and life-threatening, including problems with overcrowding and adequate provision of food or medical care.⁸ According to the US Department of State, this seems to be a particular issue for those held in pre-trial detention.⁹ Solitary confinement for government critics is

⁵ <https://www.state.gov/documents/organization/277279.pdf>

⁶ https://www.hrw.org/sites/default/files/report_pdf/rwanda1017_web_0.pdf

⁷ <https://www.hrw.org/news/2017/12/16/rwanda-needs-take-torture-seriously>

⁸ <https://www.state.gov/documents/organization/277279.pdf>

⁹ <https://www.state.gov/documents/organization/277279.pdf>

also used frequently, and often cruelly. For instance, two of Freedom Now's clients, Frank Rusagara and Tom Byabagamba, were both held in prolonged solitary confinement.

Speaking of Frank Rusagara and Tom Byabagamba, it's also worth emphasizing is that Rwanda has turned its ire not just on those individuals who openly and publicly criticize the government, such as Diane Rwigara, but also on the family members or associates of such public critics. We assume this is a way to pressure the public critics to stay quiet. This is likely why Diane Rwigara's mother and sister were arrested along side of her, and why Frank Rusagara and Tom Byabagamba—two high-ranking military officers who made no public statements disparaging the regime but who are brother and brother-in-law of well-known Rwandan dissident David Himbara—may have been targeted for detention as well. (Or, it may just be that Paul Kagame fears private criticism as much as he does public criticism.)

Although Rwanda has done a terrific job of hiding many of these abuses behind the curtain of economic and social recovery, these widespread violations of its citizen's rights have not gone totally unnoticed. Many in the international human rights community have been sounding the alarm for quite a while. We've heard from Amnesty International today, and I mentioned a landmark report that Human Rights Watch published last year on the topic of abuses in detention. Other organizations that have criticized the Kagame administration's treatment of human rights defenders include FrontLine Defenders,¹⁰ Freedom House,¹¹ Reporters without Borders¹² and many others. Even the United Nations has weighed in, with the UN Special Rapporteur on freedom of association and, the UN Working Group on Arbitrary Detention excoriating Rwanda for its treatment of peaceful dissenters.¹³ In fact, about a year ago the UN Working Group issued an opinion confirming that Frank Rusagara, Tom Byabagamba and Francois Kabayiza had all been detained arbitrarily in violation of international law and calling for their immediate release and reparations.¹⁴ Of course, Rwanda ignored this directive from the UN and these men remain in prison today. The Working Group on Arbitrary Detention is now in the process of considering Diane and Adeline Rwigara's case as well.

I hope that this briefing will pull back the curtain to reveal the very troubled Rwanda that lies beyond the smooth facade. The Rwandan government know that its abuses won't remain hidden for much longer. It's time for Rwanda to allow peaceful dissent. If President Kagame really does want to show the world a nation of remarkable recovery, or peace and prosperity and, perhaps most importantly, of respect for its citizens' human rights, a terrific place to start would be to release all of the political prisoners and commit the country to ensuring that anyone may speak freely without fear that the inside of a prison cell awaits him or her.

There are a few ways that we recommend the United States government support this path. First, the US Government should call on Rwandan authorities to immediate release all prisoners of conscience and desist from torturing detainees and ensure that perpetrators of such acts are held accountable. This should be done from the State Department and the Executive Branch, but also by

¹⁰ <https://www.frontlinedefenders.org/en/location/rwanda>

¹¹ <https://freedomhouse.org/country/rwanda>

¹² <https://rsf.org/en/rwanda>

¹³ *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, Maina Kiai, A/HRC/26/29/Add.2 (September 16, 2014); *Avis no 85/2017 concernant Franck Kanyambo Rusagara, Tom Byabagamba et François Kabayiza (République du Rwanda)*, A/HRC/WGAD/2017/85 (December 21, 2017)

¹⁴ <http://www.freedom-now.org/wp-content/uploads/2018/01/WGAD-Opinion-85-2017.pdf>

individual congressmen. Any time there is dialogue with Rwanda or Rwandan officials, US government officials must consistently raise concerns about these ongoing human rights abuses. Specifically, as I mentioned, Diane and Adeline Rwigara's verdict is set to be announced in two days, so now would be a great time for Congressmen to reach out to the Rwandan embassy to register their concern, make statements or even tweet. (In fact, I'd like to specifically thank all the congressional and Senate offices who *have already* been tweeting or reaching out on Diane's behalf—including Congresswoman Bonamici, who gave a terrific floor speech last week about Diane's predicament.) The situation of political prisoners and human rights should also be part of any budgetary discussions around aid, trade, or other bilateral relations with Rwanda.

The Rwandan government has shown itself to be sensitive to political pressure, particularly from the USA, so this is a situation where congressional concern can really have an effect.