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Rwanda to Scrap Death Penalty in Hunt for Genocide Suspects

Kigali has been demanding the return of fugitives living abroad, but some nations have refused to extradite them because they fear they may be executed

By Aimable Twahirwa
Inter Press Service

Rwanda will pass a law ending capital punishment by December 2006 to encourage European countries to extradite suspected masterminds of the genocide that occurred in the country in 1994.

The decision leaves the country in a bind. Foreign governments, the UN and non-governmental organisations applaud it. But the Rwandan public – still reeling from the rampage that left 800,000 dead and countless injured or infected with HIV/Aids after being raped – want genocide perpetrators to hang.

Justice Minister Tharcisse Karugarama admits the majority of the population made it known during the writing of the constitution that they do not want to scrap the death penalty, given the magnitude of the suffering from the genocide, in which extremist Hutu militias massacred Tutsis and moderate Hutus.

He said its abolition now was necessary in order to achieve a sense of closure. Unless the country abolishes capital punishment, it will not be able to try in its own national courts the masterminds of the genocide, he said.

For more than a decade, the Rwandan government has demanded the return of suspects living abroad. Some nations, notably Belgium, the Netherlands, Denmark and Switzerland, have refused to extradite the suspects because the countries feared the suspects may be executed.

These countries preferred instead to prosecute them in their own courts. Only the US, which allows the death penalty, has extradited a genocide suspect to Rwanda. It deported Enos Kagaba from the northern state of Minnesota in 2005 after he was judged to have entered the country illegally.

The International Criminal Tribunal for Rwanda (ICTR) is reviewing the cases of 57 suspects in a specially built prison in Tanzania. Rwanda would like those suspects to be sent back or, if found guilty, to be imprisoned in Rwanda. So far, the UN, too, has declined because officials fear the suspects will be put to death – a violation of UN principles.

By abolishing the death penalty, Karugarama said, Rwanda could gain faster access to the accused.

"We're satisfied with the speed of the negotiations with ICTR officials. All the necessary requirements for transferring cases have been fulfilled except for abolition of the death penalty, he added.

Although the ICTR is mandated to complete all business by December 2008, officials in Tanzania predict their work will not be finished by then. Since its inception in 1996, 28 suspects have been tried. Of those, 25 have been convicted of crimes against humanity and sentenced to life imprisonment.

The international body has now begun to negotiate with courts in countries that have abolished the death penalty and have modern prisons that are up to international standards.

"Rwanda is one of the only two countries that have so far expressed their wish to receive the cases of accused genocide perpetrators from the ICTR. We've accepted this proposal, but we're obliged to set up a rigorous monitoring system to ensure, number one, that this law is applied, the ICTR's public prosecutor, Hassan Bubacar Jallow, said.

Rwanda must guarantee that no convicted perpetrator of genocide will receive the death penalty, Jallow added.

There are currently some 650 prisoners on death row in the country's overcrowded jails, according to the justice ministry.

Since the genocide ended in 1994, 40 people were sentenced to death in 2002 for crimes committed during the genocide, and in 2003, 18 received the sentence for perpetrating it.

In 1998, however, 22 people found guilty of masterminding the genocide received the death penalty and were executed.

But new ideas on capital punishment seem to have evolved since then, especially in the country's official circles.

Yet news that the law abolishing the death penalty soon will be adopted is painful to genocide survivors.

"Those who carried out the genocide should be executed in order to forever eradicate the culture of impunity that has always marred Rwanda. The only solution: sentencing them to a grave punishment, which their past actions merit, said Francois Ngarambe, president of a genocide survivors group, Ibuka (Remember in Kinyarwanda, the national language).

Moreover, they say close relations of the perpetrators, if not the perpetrators themselves, continue to threaten them.

"Abolishing the death penalty would be a new humiliation for the survivors, and would encourage the killers to finish off their extermination plan, said Jean Glauber Burasa, editor of Rushyashya, a bimonthly independent newspaper published in Kigali.

"It's unfortunate that even though a large majority of them (the genocide perpetrators) have just spent a decade in prison, they continue in the extremist ideology that the former genocidal regime infected them with, he added.

A Kigali attorney, who requested anonymity, disagrees. "The crime of genocide perpetrated in Rwanda had a disastrous effect on the social fabric here. Even though justice must be served, we'd have to agree on the advantages this reform will bring to Rwandan justice by conforming to international standards of justice, he said.

In a May 2005 report on the progress of judicial reforms, the US-based group Lawyers Without Borders said that for justice to be served, the main difficulty lies not only in abolishing the death penalty, but providing compensation to the victims.

"There have hardly been any reparations paid to the victims of the 1994 genocide. The Rwandan authorities need to assume their responsibilities and resolve this problem immediately, Hugo Jombwe Moudiki, the head of Lawyers Without Borders's office in Rwanda, said.

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