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	<p>Pour un Peuple Réconcilié dans un État de droit; For a Reconciled People in a Rule of Law; Duharanire Ubwiyunge bw'Abanyarwanda mu Gihugu cyubahiriza Amategeko;</p>	

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THE RDR REJECTS THE SPECIAL JURISDICTIONS «GACACA» IN RWANDA

On behalf of the oppressed people of Rwanda struggling for justice, democracy and freedom for all, the Rally for the Return of Refugees and Democracy in Rwanda (RDR¹) asks all democratic governments and freedom-loving organisations and peoples to condemn and not fund the special mob courts «gacaca» put forward as a solution to the overcrowding of state prisons by the dictatorial government of Rwanda led by the Rwandan Patriotic Front (RPF), an organisation whose leaders are suspected war criminals co-responsible of the Rwandan genocide and still committing numerous crimes against humanity in Rwanda and in Democratic Republic of Congo.

Traditionally, the «gacaca» courts in Rwanda are voluntarily used by two parties who agree on the person who will hear their case and reconcile them by settling their civil disputes out of ordinary courts. The proposed government-run «gacaca» courts imposed on the parties, headed by non-democratically elected judges with no qualification in law, empowered to hear serious criminal matters as crimes against humanity and to impose jail terms, have nothing traditional at all and constitute a mockery of justice. The institution of special government-run «gacaca» courts violates the principles 2, 5, and 10 of the U.N. Basic Principles on the Independence of the Judiciary. In particular, the principle 5 states that: “*Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.*” The state-run «gacaca» courts also violate the right of the accused to have a fair trial before a competent, independent and impartial tribunal as recognized by the articles 10 and 11 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights.

¹ The RDR is member of the Union of Rwandese Democratic Forces (UFDR), a coalition formed by the Resistance Forces for Democracy (FRD), the Initiative Group for Dialogue (GID) and the Rally for the Return of Refugees and Democracy in Rwanda (RDR).

Since the RPF assumed power in July 1994, violations of the principles of the equality before the law, the presumption of innocence, the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal have become the general rule. The overcrowding of state prisons resulted from the massive arbitrary arrests and prolonged illegal detentions of the citizens, the majority of whom are political prisoners and persons whose properties are illegally occupied by RPF members and sympathisers. By the end of 1998, more than 5,000 detainees had already died in state prisons and more than 150,000 are languishing in jails since 1994. In November 1997, the Justice Ministry said it cost \$10 million per year to keep prisoners in detention and revealed in early 1998 that the minors, elders, prisoners with incurable diseases and those without complete case files were to be released. Whereas the start of release of prisoners arbitrarily arrested and illegally detained was a good step in the right direction, a campaign of intimidation and terror raged by IBUKA, a genocide survivors' association, halted all the releases. Bowing to pressures from IBUKA, the government appointed Jean de Dieu Mucyo, himself a genocide survivor, as minister of justice. The «gacaca» courts proposed by his department give the accusers all the power to prosecute themselves the accused.

In 1995, the RPF-led dictatorial government first appealed for foreign magistrates to help resurrect the legal system and many countries and NGOs pledged to offer competent legal personnel. However, the government later rejected all offers. Put in need to deliver its supporters a substantial number of guilty verdicts, the government solicited bilateral funding to train its sympathisers for the various roles required. In January 1996, the government-appointed parliament voted the relaxation of the requirement that magistrates in the Appeal Court have a law degree. On September 28, 1996, 20 Supreme Court judges, 29 Appeal Court judges and 200 public prosecutors and magistrates were sworn in after having had around six months legal training only. Most of the trials have been characteristically short, with no defence lawyers present, few if any witnesses called, little cross-examination and speedy sentencing by incompetent judges with inappropriate training or qualification in law. Under state-run «gacaca» courts, trials will be particularly more unfair than it already is in ordinary courts.

Since the RPF-led dictatorial government has continuously ignored all our appeals for the respect of citizens' rights and freedoms, the RDR appeals to all democratic countries, the United Nations, the European Union, the Organisation of the African Unity, all human rights organisations and freedom-loving people to use all their influence and power to secure the release of all prisoners arbitrarily arrested and illegally detained for years in nazi-style state prisons by the RPF-led dictatorial government. There can't be true peace in Rwanda without justice and there can't be justice without true democratic institutions with an abiding culture of human rights.

Done in Montreal on 25 September 2000

For the RDR

Emmanuel Nyemera, Ph. D.

Vice-President