

**Organisation Mondiale Contre La Torture and Association Internationale des juristes Democrates, Commission Internationale des Juristes (C.I.J) and Union Interafricaine des Droits de l'Homme v. Rwanda, Communications Nos. 27/89, 46/91, 49/91 and 99/93 (1996)**

**1) Reference Details**

Jurisdiction: African Commission on Human and Peoples' Rights

Date of Decision: October 1996

Case Status: Concluded

**2) Facts**

Communication No. 27/89: Concerned a submission made on behalf of a group of Burundians who had been deported from Rwanda following many years there as a refugees. The Rwandan Government's reasons given at the time were of national security.

Communication No. 46/90: Concerned a complaint of arbitrary arrests and summary executions across Rwanda.

Communication No. 49/91: Concerned the detention of thousands of citizens in various parts of Rwanda, which it is submitted was based solely on ethnic origin and non-violent political activities. Furthermore it was submitted that large numbers of villages were destroyed and villagers, mostly Tutsi, were massacred.

Communication No. 99/93: Concerned further complaints of widespread massacres, extrajudicial executions and arbitrary arrests of Tutsis between October 1990 and January 1991.

**3) Law**

- African Charter on Human and Peoples' Rights Articles 2, 4, 5, 6, 7(1), and 12.

**4) Legal Arguments**

The Complainants submitted the facts described above and argued that these constituted violations of the African Charter in that they did not respect the right to life, the prohibition on cruel, inhuman and degrading treatment and the prohibitions on discrimination and mass expulsion. Furthermore the Rwandan governments' actions denied the right of individuals to have their cause heard before competent tribunals.

The Government of Rwanda made no response to repeated requests for submissions.

**5) Decision**

The Commission ruled that, in accordance with its rules of procedure, when a respondent fails to reply to requests for submissions the Commission may decide the case on the facts presented by the complainant and accept these as a given.

The Commission also noted that since the submission of these complaints there have been significant events and changes in Rwanda, however it is still bound to decide the case on the facts submitted to it.

#### Article 2

Under Article 2 of the African Charter there is to be no distinction made in the enjoyment of rights under the Charter. The Commission found that there was considerable evidence to show that violations had occurred on the basis of Burundian nationality or Tutsi ethnicity.

#### Article 4

Article 4 of the African Charter guarantees the right to life and the freedom from arbitrary deprivation thereof. The Commission concluded that the massacre of Rwandan villagers by members of the Rwandan armed forces on the basis of their Tutsi ethnicity was a violation of this right.

#### Article 5

Torture, cruel, inhuman and degrading treatment are prohibited under Article 5 of the African Charter. The Commission considered that the facts submitted to it concerning the conditions of detention in which children, women and the aged were being kept constituted a violation of Article 5.

#### Article 6

Article 6 provides a guarantee of the liberty and security of the person which the Commission ruled was violated by arrests based solely on the grounds of ethnicity.

#### Article 12

Article 12 was violated in three respects according to the Commission. Firstly, Article 12(3) provides persecuted individuals the right to seek and obtain, in accordance with law, refugee status or asylum. Secondly, Article 12(4) provides that non-nationals who have legally obtained the right to enter the country cannot be expelled except by a decision taken in accordance with the law. Thirdly, Article 12(5) prohibits the mass expulsion of non-nationals from the territory. The Commission determined that the communication submitted considerable evidence of violations of these rights in respect of Burundi nationals.

Finally, the Commission found that there was no opportunity in any of the foregoing cases of violations to have the case heard before a legitimate and appropriate authority, which was in violation of Article 7(1) of the African Charter.