Chapter 12 Party Constitutionalisation and Democracy in Securocratic States: Lessons from Rwanda

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1. Introduction

Political parties are essential to the functioning of representative democracy, as they facilitate political participation, representation, competition, and accountability.[1]

However, the quality and sustainability of democracy depends on the constitutional and legal frameworks that regulate and protect political parties, as well as on the behaviour and performance of parties themselves.

In some sub-Saharan African countries (Egypt, Zimbabwe, and Rwanda, for example), parties operate under a securocratic state framework, where ruling elites prioritise security over liberty and use coercion and repression to maintain their power and legitimacy.[2] This chapter examines how the constitutionalisation of political parties has shaped the nature and quality of democracy in Rwanda – a paradigmatic case of a securocratic state that has undergone party constitutionalisation, in its case since the end of the genocide in 1994.[3]

1 See UN Human Rights Committee, General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), 12 July 1996, CCPR/C/21/Rev.1/Add.7, paragraph 26. See also Venice Commission, *Guidelines on Political Party Regulation*, 2nd ed, 14 December 2020, CDL-AD(2020)032, paragraphs 17–18, www.eods.eu/library/VeniceCommission_OSCE_2020_PartyRegulation.pdf (accessed 16 April 2024).

2 OS McDoom, "Securocratic State-Building: The Rationales, Rebuttals, and Risks Behind the Extraordinary Rise of Rwanda after the Genocide", 121 (2022) *African Affairs*, pp 535–567. For a case study on Zimbabwe, see E Ziso, "Exploring the Interplay of Political Party Regulation and Internal Contradictions of Opposition Politics in Zimbabwe: The Case of the MDC/CCC", in this volume.

3 M Bogaards, "Counting Parties and Identifying Dominant Party Systems in Africa", 43 (2004) *European Journal of Political Research*, pp 173–197. See also G Borz, "Justifying the Constitutional Regulation of Political Parties: A Framework for Analysis", 38 (2017) *International Political Science Review/Revue Internationale de Science Politique,* pp 99–113.

The chapter adopts a single-case-study approach in examining the constitutionalisation of political parties in Rwanda. This allows for an in-depth analysis of the complex and dynamic phenomenon of party constitutionalisation and its implications for democracy and human rights.[4] The chapter seeks to uncover causal mechanisms that link party constitutionalisation to the nature and quality of democracy in Rwanda.[5] It also situates the Rwandan case within the broader literature and its debates on democracy and securitisation in sub-Saharan Africa (and beyond).[6] The chapter draws on primary and secondary data sources – including the Constitution,[7] legal texts, laws, court judgements, academic literature, and media reports – and seeks to answer the following questions: (1) How and why did party constitutionalisation take place in Rwanda; (2) what are the main features of and challenges to party constitutionalisation; (3) how does party constitutionalisation affect the state of democracy and human rights; and (4) what can be learnt from the Rwandan case in the interests of promoting democracy and constitutionalism in sub-Saharan Africa?

The chapter is structured as follows. After this introduction, section 2 presents the historical and political context of party constitutionalisation in Rwanda, and explains the objectives that the ruling party and opposition parties have had in engaging in party constitutionalisation. Section 3 examines the legal framework for party constitutionalisation, and assesses its impact on the formation, operation, and inclusivity of political parties. In so doing, the section highlights the implications that party constitutionalisation has for the state of democracy and human rights in Rwanda. It also examines the limits and achievements of constitutionalisation in promoting democratic values and institutions in the context of a securocratic state. Section 4 presents the conclusions of the study and identifies key lessons

4 For more on the case-study approach, see J Gerring, *Case Study Research: Principles and Practices*, Cambridge, Cambridge University Press (2007). See also P Baxter and S Jack, "Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers", 13 (2008) *The Qualitative Report*, pp 544–559; RK Yin, *Case Study Research Design and Methods*, 5th ed, Thousand Oaks, Sage (2014).

5 Specifically, the study utilises process-tracing. See D Beach and RB Pedersen, *Process-tracing Methods: Foundations and Guidelines*, 2nd ed, Michigan, University of Michigan Press (2019); A Bennett and JT Checkel (eds.), *Process Tracing: From Metaphor to Analytic Tool*, Cambridge, Cambridge University Press (2015).

6 G Erdmann and M Basedau, "Problems of Categorising and Explaining Party Systems in Africa", 4 (2007) *GIGA Working Papers* 40 (2007), ssrn.com/abstract=978166 or dx.doi.org/10.2139/ssrn.978166 (accessed 16 July 2024).

7 Constitution of the Republic of Rwanda of 2003, amended in 2015 and 2023.

and recommendations that can be derived from the Rwandan case in terms advancing democracy in sub-Saharan Africa.

2. Historical and political context

Composed as it is of three main ethnic groups – the Hutu (about 85 per cent), the Tutsi (about 14 per cent), and the Twa (about 1 per cent) – Rwanda has a long and turbulent history of ethnic conflict which, culminating in the 1994 genocide, has shaped its political and social landscape.[8] These same ethnic dynamics were decisive for the outcomes of the independence elections and subsequent post-independence subjugation of minority groups. Party constitutionalisation in Rwanda has thus been shaped by the country's historical political experiences of colonialism, ethnic division, civil war, and genocide.[9] Specifically, two main factors undergird party constitutionalisation in Rwanda: the legacy of the genocide and civil war, and the international legal justice pressure of the regional and international community.[10]

In 1884, Rwanda was established as a German protectorate and, in 1890, incorporated into German East Africa as Ruanda-Urundi.[11] After World War I, and under the terms of the Versailles Treaty, it fell under Belgian administration under a League of Nations mandate; after World War II, it became a United Nations trust territory, with Belgium as the administra-

8 For information on population estimates, ethnic divisions, and the ethnicisation of Rwandan society by Belgian administration, see United Nations, "Outreach Programme on the 1994 Genocide against the Tutsi in Rwanda and the United Nations", n.d., paragraphs 1–3, http://www.un.org/en/preventgenocide/rwanda/historical-background.shtml#prior-to-colonial-era (accessed 23 October 2024). For a historical account of Rwanda's political parties and the origins of ethnic conflict, the exclusionary state, and genocide, see M Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*, Princeton, Princeton University Press (2001), p 70. See also F Golooba-Mutebi, "Collapse, War and Reconstruction in Rwanda: An Analytical Narrative on State-Making", Crisis States Research Centre (2008), pp 3–12, www.lse.ac.uk/international-development/Assets/Documents/PDFs/csrc-working-papers-phase-two/wp28.2-collapse-war-and-reconstruction-in-rwanda.pdf (accessed 25 March 2024).

9 Golooba-Mutebi, *supra* n. 8, pp 3–12.

10 *Ibid*, p 6.

11 See Commonwealth Election Observer Mission, "Chapter 2 Political Background", 2013, p 3, https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/288/285/2283?inline=1 (accessed 26 October 2024).

tive authority.[12] During this period of Belgian administration, Rwandans were subjected to an exclusionary "divide-and-rule" political system. This initially favoured the Tutsi minority over the Hutu majority, and citizens were required to carry identity cards marking their ethnic identity. Later, the Belgians supported Hutu insurgence, including violence against, and ultimately the replacement of, the Tutsi monarch's authorities.[13] The colonial legacy was profound. It thoroughly ethnicised Rwandan politics, and allowed inter-ethnic violence to be engaged in with impunity. This led ultimately to the mutually antagonistic ethnic parties that were to have grave implications for the future of Rwandan politics.

Thus, the two most prominent parties that emerged in the late 1950s to contest in the elections marking Rwanda's independence were the Party of the Movement for Hutu Emancipation (Parmehutu) and the Rwandan National Union. While the former advocated for Hutu supremacy and independence from Belgium, the latter supported the Tutsi monarchy and independence.[14] The two parties each provoked inter-ethnic violence for political gain and mobilised party membership and structures along ethnic lines. Parmehutu – having now become Mouvement Démocratique Republicain-Parmehutu (MDR-Parmehutu) – won the first elections in 1961. It established a one-party dictatorship under President Gregoire Kayibanda, who conducted an onslaught against the Tutsis in the immediate post-independence period (1962–1973), one that included a series of massacres, as well as the general persecution, marginalisation, and exiling of Tutsis. The MDR-Parmehutu was established as the only legal party and Kayibanda was re-elected unopposed in 1965 and 1969.[15]

However, on 5 July 1973, Kayibanda was overthrown in a military coup led by his defence minister, Juvénal Habyarimana. Habyarimana, in turn,

12 Ibid.

13 See C Newbury, "Background to Genocide: Rwanda", 23 (1995) *Issue: A Journal of Opinion*, pp 12–17; "Divided by Ethnicity", *United States Holocaust Memorial Museum*, September 2021, https://www.ushmm.org/genocide-prevention/countries/rwanda/divided-by-ethnicity (accessed 23 March 2024). See also S Strauss, *The Order of Genocide: Race, Power, and War in Rwanda*, Ithaca and London, Cornell University Press (2006), pp 181–182.

14 Parti du Mouvement de l'Emancipation Hutu later became the Republican Democratic Movement – Party of the Movement for Hutu Emancipation (MDR-PARMEHUTU). See Golooba-Mutebi, *supra* n. 8, pp 4–5.

15 D Zuber, "Gregoire Kayibanda (1924–1976)", *Black Past*, 23 March 2022, https:www.blackpast.org/global-african-history/people-global-african-history/gregoire-kayibanda-1924-1976 (accessed 23 October 2024).

established a Hutu-dominated one-party state under his Mouvement Révolutionnaire National pour le Développement (MRND) party.[16] According to Article 7 of the 1978 Constitution of Rwanda, the "National Revolutionary Movement for Development constitutes the unique political framework outside which no political activity [can] be exercised". The 1978 constitution granted Habyarimana extensive powers as President of the republic, as well as, according to Nkunzumwami, "Prime Minister, Army Chief of Staff, Minister of Defence, President of the MRND's Central Committee, and President of the High Judicial Council".[17] Not surprisingly, he was re-elected with overwhelming majorities in 1978, 1983, and 1988: the regime's one-party state forced every Rwandan to become a member of the ruling party by law.[18]

The period 1990–1994 is referred to as a transition period, and sowed the seeds of the instability which is still current today. 1990 saw the outbreak of the civil war as the Rwandan Patriotic Front (RPF), a rebel group composed of predominantly Tutsi refugees, invaded Rwanda from Uganda and challenged the MRND regime.[19] The RPF demanded a wide range of political reforms, including power-sharing, and the return of refugees. The civil war prompted international mediation, and a peace agreement, the Arusha Accords, was signed in 1993.

The Arusha Accords provided for a multiparty system; a transitional government; a new constitution; and the integration of the RPF in the national army. Implementation was obstructed by the hardliners in the MRND and its allied parties, who opposed the concessions to the RPF made in the Accords.[20] The situation deteriorated sharply in 1994 when Habyarimana was assassinated by unknown assailants. This triggered a nation-wide genocide in which Hutu extremists killed an estimated 800,000 Tutsis and moderate Hutus in 100 days. The genocide was stopped in its tracks by the military victory of the RPF, led by Paul Kagame. The

16 Rwanda Parliament and the Senate, *Political Pluralism and Power Sharing,* Kigali, Rwanda, Parliament and the Senate (2010), p 94, https://www.parliament.gov.rw/fileadmin/user_upload/Parliament/Research/Political_Plurarisme_and_Power_sharing_in_Rwanda.pdf (accessed 7 November 2024).

17 E Nkunzumwami, *La Tragédie Rwandaise: Historique et Perspectives,* Paris, L'Harmattan (1996), p 74. See also Rwanda Parliament and the Senate, *ibid*, p 94.

18 FX Munyarugerero, Réseaux, Pouvoirs, Oppositions: La Compétition Politique au Rwanda, Paris, Editions l'Harmattan (2003), pp 213–225.

19 Golooba-Mutebi, *supra* n. 8, pp 22–23.

20 *Ibid*, p 23.

RPF took control of the country and established a government of national unity.[21]

Even a minimal survey of the historical data suggests the existence of three major fault lines in Rwandan political culture. First, the establishment of a politics of ethnic hegemony made it difficult if not impossible for parties to create the common ground necessary for a sustainable nation-building project: the resulting ethnic animosity and mutual sense of grievance between the Hutu and Tutsi tribes undermined the legitimacy of the state.

Secondly, the political organisation which resulted from the primacy of ethnicity meant that the smaller ethnic groups perceived zero chance of ever winning any elections. Given such a divided political culture, the perception that only a military coup might allow minorities inclusion in the governance and distribution of state resources becomes powerful.

Thirdly, the creation of a clientelist and exclusionary state meant elections were undemocratic: it was practically impossible for the opposition to defeat the ruling party, and this entailed a failure to bring key stakeholders to the governing table to ensure that the socio-economic demands of all key segments of the state are addressed equitably. Under these circumstances, a military coup d'état or armed rebellion is seen as the only means of alternating power.[22]

The post-genocide period (1994 to the present) has been characterised as one of political transition, reconstruction, and reconciliation in Rwanda. Under the leadership of the RPF and its president, Paul Kagame, the country aims to prevent the resurgence of political instability.[23] This transition has taken the form of a securocratic state-building model. In this model, military elites infiltrate and capture the key state institutions responsible for ensuring political transition through democratic elections; these are then used to ensure that the ruling party wins elections.[24] The securocratic state

21 *Ibid*, pp 23–24.

22 Previous studies in Africa have shown that monopolies of power and exclusionary political systems lead rival elites to choose a military option to gain power. See DM Tull and A Mehler, "The Hidden Costs of Power Sharing: Reproducing Insurgent Violence in Africa", 104 (2005) *African Affairs*, pp 375–398.

23 Paul Kagame became President of Rwanda in 2000. For more on the Rwandan transition, see B Ingelaere, M Verpoorten, ME Desrosiers, and F Reyntjens, *Genocide, Ideology and Politics in Rwanda,* London, Routledge (2018); B Chemouni, "The Political Path to Universal Health Coverage: Power, Ideas and Community-based Health Insurance in Rwanda", 106 (2018) *World Development*, pp 87–98.

24 For a detailed account of the securocratic state, see P Ruhanya and B Gumbo, "The Securocratic State: Conceptualising the Transition Problem in Zimbabwe", 8

exhibits all the characteristics of a competitive authoritarian regime, including the capture of the legislature, judiciary, the media and the electoral arena, as well as the use of these institutions to manipulate and control the electoral environment so as to ensure that the opposition always loses.[25] Elections are held, but are lacking in the fundamentals of democracy: they work only to keep the ruling party in power and make sure that the opposition loses, even before the ballots are counted.[26] Competition between parties exists, but the outcome is rigged and blatantly unfair.[27]

Securocratic state-building in Rwanda, which is intended to further Rwanda's developmental aims following the genocide, involves a strategic contradiction between the state's aspiration for unity and its preoccupation with security.[28] The RPF has often cited the need to prevent the recurrence of genocide and the need to ensure national unity and security as the rationale for its tight control of the political sphere.[29] It is in this policy context that the RPF government has pursued a form of party constitutionalisation that aims to regulate the formation, functioning, and financing of political parties while at the same time promoting national unity, democracy, and human rights in the new political order.

Indeed, scrutiny of Rwanda's provisions on party constitutionalisation reveals an attempt to prevent the ethnic hegemony and exclusionary, tribally-based party politics that were responsible for the country's previous instability. These have important implications for the development of party systems, the nature and quality of party competition, the internal democracy and organisation of parties, their funding and accountability, and the

(2023) *Third World Thematics: A TWQ Journal*, pp 219–237. The term "military elites" refers to serving and retired members of the uniformed forces who occupy high-level decision-making posts in the country.

25 For an in-depth study of competitive authoritarian regimes, see C Carothers, "The Surprising Instability of Competitive Authoritarianism", 29 (2018) *Journal of Democracy*, pp 129–135. See also S Levitsky and LA Way, "The Rise of Competitive Authoritarianism", 13 (2002) *Journal of Democracy*, pp 51–65.

26 See L Diamond, "Elections without Democracy: Thinking about Hybrid Regimes", 13 (2002) *Journal of Democracy*, pp 21–35.

27 S Mainwaring, "From Representative Democracy to Participatory Competitive Authoritarianism: Hugo Chávez and Venezuelan Politics", 10 (2012) *Perspectives on Politics*, pp 955–967.

28 McDoom, *supra* n. 2, p 539.

29 For a detailed examination of authoritarian rule in Rwanda, see F Reyntjens, "Rwanda, Ten Years on: From Genocide to Dictatorship", 103 (2004) *African Affairs*, pp 177–210.

relationship between parties and institutions of governance. However, the regulation of parties in Rwanda is a disputed and constrained process, as the RPF and government have used various legal and extra-legal means to limit their autonomy, diversity, and competitiveness, as well as to co-opt or repress those who challenge the RPF's dominance and ideology.[30]

3. The state of party constitutionalisation in Rwanda

As a multidimensional phenomenon, party constitutionalisation is measured by a variety of indicators. These include the constitutional status of parties; the legal framework for party registration; organisation, funding, and accountability; internal democracy and representation within parties; and the degree of party competition and pluralism.[31]

The regulation of political parties also has both an international and regional dimension as well as a domestic one. As for regional and international frameworks in this regard, they are covered in detail in preceding chapters.[32] One of the central features of securocratic regimes is that they have little or no regard for international norms once the security and longevity of the regime is seen as under threat. Here, the Rwandan government's response to the ruling issued by the African Court on Human and Peoples' Rights (ACtHPR) for violating rights provided in international covenants is instructive: it responded by withdrawing its Article 34(6) "Additional Declaration" to the ACtHPR Protocol.[33] This declaration had allowed individuals to bring cases directly to the ACtHPR, and its removal

30 See S Strauss and L Waldorf (eds.), *Remaking Rwanda: State Building and Human Rights after Mass Violence,* Madison, University of Wisconsin Press (2011), p 4.

31 Z Nwokora and R Pelizzo, "Measuring Party Constitutionalisation: A Comparative Study of 144 Parties from 20 African Countries", 22 (2016) *Party Politics*, pp 521–533.

32 See J Socher, "Constitutionalisation of Political Parties: International Standards and the Experience of Continental Europe", in this volume. For discussion of African regional standards, see C Fombad and J Socher, "Regional Standards for Regulating Political Parties in Africa", in this volume.

33 ACtHPR, *Ingabire Victoire Umuhoza v The Republic of Rwanda,* App. No. 003/2014, Judgement of 24 November 2017. Similarly, in 2017 the Zimbabwean securocratic regime went ahead with a militarily assisted overthrow of then President Mugabe despite constitutional, regional and international law outlawing unconstitutional change of government, and no harm or sanction befell them.

was thus intended to suspend all the cases against Rwanda before the court.[34]

This chapter focuses instead on Rwanda's domestic legal framework for party regulation and constitutionalisation. It asks how this framework promotes or shrinks the democratic space, looking at questions of freedom of association, expression, and protest for political parties and assessing the implications of these for democracy. As will be shown below, in the absence of supportive political institutions, political will, and a citizen-centred (rather than state-centred) legal system, party constitutionalisation can easily become little more than a tool in lawfare targeting the defenders of democracy and political opponents.

Two key legal instruments come under the spotlight in this chapter. The first is the Constitution of the Republic of Rwanda, as adopted in 2003 and last amended in 2023.[35] The second is the 2013 Organic Law Governing Political Organisations and Politicians (as amended in 2018 and referred to hereinafter as the Law Governing Political Organisations).[36] Together, these legal instruments regulate the formation, registration, operation, and inclusivity of political parties in Rwanda. They also strive to ensure the stability and security of the country, and to prevent the recurrence of ethnic divisions and conflicts.

At the outset, it is to be noted that the Constitution and Law Governing Political Organisations use the term "political organisations" rather than "political parties". This choice is designed to ensure inclusivity and flexibility, as "political organisations" is broader than "political parties" in that it encompasses a wide range of entities (including movements, coalitions, and other forms of political association) that might not fit the traditional definition of a party. Although using "political organisation" rather than just "political party" is a nice, inclusive thing to do as it covers associations

34 This attempt was not entirely successful. Although the ACtHPR ruled in the *Ingabire Victoire Umuhoza Case* on 5 September 2016, that Rwanda's withdrawal of its Article 34(6) declaration was legal, the Court also determined that the withdrawal did not affect cases that were already pending before it, including the *Ingabire* case.

35 Constitution of the Republic of Rwanda of 2003, amended in 2015 and 2023, Official Gazette No. Special, 4 August 2023, Chapter vi, https://ihl-databases.icrc.org/en/national-practice/constitution-republic-rwanda-2003-revised-2015-and-2023 (accessed 5 March 2024).

36 Organic Law No. 005/2018.Ol of 30 August 2018 Modifying the Organic Law No. 10/2013/Ol of 11 July 2013 Governing Political Organisations and Politicians, Official Gazette No. 37 of 10 September 2018, https://archive.gazettes.africa/archive/rw/2018/rw-government-gazette-dated-2018-09-10-no-37.pdf (accessed 5 March 2024).

over and beyond conventional parliamentary parties - but by the same token, and a twist of the knife, it dramatically expands the scope of entities to which the state's repressive control applies to cover essentially any form of organised political activity imaginable.

The political organisations and politicians affected by these regulations are defined in Article 2(6) and (7) of the Law Governing Political Organisations as follows:

(6) political organisation: an association of citizens sharing the same thinking and views on the development of social welfare of all the population and the development of the country, with the objective to accede to power through democratic and peaceful ways, to be able to put them in action;
(7) politician: any person carrying out political activities as provided for in item six (6) of this Article, be it individually or through a political organisation.

To understand the broader democratic implications, the analysis in this chapter focuses on the implications of this regulatory framework for four critical conditions that significantly impact the quality of political-parties' participation in democratic contestation: autonomous formation of political parties, their recognition and protection, their inclusion and participation in electoral affairs, and their internal democracy.[37]

Evidence shows that Rwanda's political-party regulatory framework is typical of securocratic states: while it formally acknowledges democratic structures, it constrains party operations.[38] The framework's dual nature is evident in the fact that, while permitting multiple parties, it imposes stringent conditions that erode their autonomy and fair representation of varied political views. This results in a "guided paper democracy", where the appearance of multiparty democracy is belied by regulations that limit true pluralism and allow the ruling party to retain substantial control of the political landscape.[39]

37 I van Biezen, "Constitutionalising Party Democracy: The Constitutive Codification of Political Parties in Post-war Europe", 42 (2012) *British Journal of Political Science*, pp 187–212.

38 P Niesen, "Political Party Bans in Rwanda 1994–2003: Three Narratives of Justification", 17 (2010) *Democratization*, pp 709–729.

39 On the notion of a "guided democracy" that exists on paper but not in practice, see, for example, L Palmier, "Review of Guided Democracy, by TK Tan and Hong Lee Oey", 7 (1973) *Modern Asian Studies,* pp 296–305.

3.1 The right to existence: limited multipartyism?

In Rwanda, registered political parties are constitutionally recognised, albeit that the right to form political parties is a privilege restricted to adult citizens domiciled within the country. The aim appears to be, on the one hand, to recognise the right of political parties to exist but, on the other, to limit this right in restrictive ways and dictate their internal democracy. These tensions are evident in articles 54 and 55 of the Constitution read together with article 13 of the Law Governing Political Organisations. Article 54 of the Constitution states:

1) A multiparty system is recognised.
2) Political organisations fulfilling the conditions required by law may be formed and operate freely.
3) Duly registered political organisations receive State grants.
4) An organic law determines the modalities for the establishment and functioning of political organisations, the conduct of their leaders, and the process of receiving State grants.

Article 54 is supported by the East African Community's regional framework for the regulation of political parties, in particular Article 7(3) of the Draft Protocol on Good Governance, developed in 2012.[40] In addition, the African Charter on Democracy, Elections and Governance (ACDEG) of 2012[41] requires state parties to strengthen "political pluralism and recognis[e] the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law"; they are also called on to institutionalise measures that consolidate "sustainable multiparty political systems".[42]

The recognition of multipartyism and the provision of financial support to "duly registered political organisations" sought to limit the possibility of a return to a one-party state and the attendant exclusionary politics that led to genocide and civil war. During the Habyarimana era, all citizens were

40 East African Community, The East African Community Protocol on Good Governance (Draft), https://meaca.gov.ss/wp-content/uploads/2022/08/Pdf-Draft-Protocol-on-Good-Governace.pdf (accessed 22 October 2024).

41 For a detailed analysis of the regional frameworks for political party regulation, see Fombad and Socher, *supra* n. 32.

42 See articles 3(11) and 32(6) and (7) of the ACDEG, https://au.int/sites/default/files/treaties/36384-treaty-african-charter-on-democracy-and-governance.pdf (accessed 23 March 2024).

required to join the ruling party, an arrangement that violated the freedom of association undergirding multipartyism, leaving minority Tutsi groups with the sole recourse of political participation or mobilisation through external and violent insurgent organisations. To alleviate this, Article 55 of the Constitution states:

1) Every Rwandan has a right to join a political organisation of his or her choice, or not to join any.
2) No Rwandan shall be subject to discrimination on grounds of membership in a given political organisation, or non-membership in a political organisation.

This echoes Article 10(2) of the African Charter on Human and Peoples' Rights (ACHPR) (alongside other regional and international covenants), which extends freedom of association by including the negative freedom of not being compelled to join an association.[43]

Article 54 of the Constitution sets limits on the right to form political parties and mandates legislation to set those conditions and limitations.[44] Some of these conditions and limitations are stipulated in article 13 of the Law Governing Political Organisations:

> For anyone to be in the management of a political organisation he/she shall fulfil the following:
>
> 1) to be of Rwandan nationality;
> 2) to be at least twenty-one (21) years old;
> 3) not to have been deprived of his/her civil or political rights by court;
> 4) to have his/her domicile in Rwanda;
> 5) not to have been sentenced to an imprisonment equal to or exceeding six (6) months …

The requirements seek to ensure that individuals in these positions are qualified and have an unblemished legal and civic record, thereby preventing the formation of fraudulent or extremist groups. However, the emphasis on citizenship and Rwandan residence also reflects the government's desire

43 African Charter on Human and Peoples' Rights (1981), https://achpr.au.int/en/charter/african-charter-human-and-peoples-rights (accessed 23 October 2024). This was also reiterated by the ACtHPR in *Mtikila and Others v Republic of Tanzania*.

44 In addition, Article 29(3) of the ACHPR imposes the duty on individuals "to preserve and strengthen social and national solidarity, particularly when the latter is threatened".

to monitor politicians while excluding Rwandan refugees and members of the diaspora from political participation. Article 13 in fact suffers from four major flaws.

First, the requirement that only Rwandan nationals can be in the management of a political organisation ignores the fact that non-citizens may offer significant expertise and experience and bring valuable contributions. This can marginalise individuals who, despite their long-term residence and contribution to the country, are not granted citizenship.

Secondly, setting the minimum age at 21 excludes younger individuals who are politically active and already making meaningful contributions to political organisations. This can be seen as a way for the older generation to maintain control and limit the influence of younger (and potentially more progressive) voices.

Thirdly, when a judicial system is not fully independent, the clause disqualifying someone from office on the grounds of being deprived of civil or political rights by a court can be problematic. When judiciaries in securocratic states are captured by the ruling elite, the courts can be used to target political opponents unfairly and strip them of their rights through biased legal proceedings, thus preventing them from participating in political management.

Additionally, requiring individuals to be domiciled in Rwanda excludes Rwandan citizens living abroad who might wish to make a contribution to political life in their country of origin. This measure is used to limit the influence of the diaspora, the members of which may well have different perspectives and promote ideas that challenge the status quo.

Finally, the restriction imposed on those sentenced to imprisonment of six months or more is overly broad and does not take into account the nature of the offence or the context in which it occurred. It could thus be used to disqualify individuals who have been politically persecuted or imprisoned for minor offences, thereby reducing political diversity and opposition.

In practice, all the terms above have been devised to maintain the power of the RPF political elite and actively suppress dissenting voices.[45] So, all in

45 For instance, Rwandan courts rejected appeals by two prominent opposition leaders, Bernard Ntaganda and Victoire Ingabire, to remove previous convictions that effectively barred them from contesting the July 2024 elections. Ingabire, the leader of Dalfa Umurinzi ("Development and Liberty for All"), saw her application to the Kigali High Court for reinstatement of her right to contest the 2024 polls rejected,

all, the elements of article 13 entail that, in Rwanda, the right to freedom of association is limited, vulnerable, and exclusionary. By employing the term "political organization" rather than just "political party," the scope of entities subject to state control is dramatically expanded. This inclusive terminology, while seemingly positive, actually broadens the state's repressive reach to encompass virtually any form of organized political activity, thus reinforcing the limitations on freedom of association. This is contrary to the position taken by the African Commission that "in regulating the use of this right, the competent authorities should not enact provisions which would limit the exercise of this freedom" and that "the regulation of the exercise of the right to freedom of association should be consistent with States' obligations" under the ACHPR.[46]

To ensure a fair multiparty system and help create a more inclusive political environment, it would thus be necessary to reconsider the age and nationality restrictions and allow for the diaspora's inclusion in political-party formation.

3.2 Establishing a political organisation

The Constitution grants operational rights exclusively to political organisations that are duly registered in accordance with the Law Governing Political Organisations.[47] However, this law requires that before applying to register a political party, the political party in question must first be properly established.[48] There are four preconditions for satisfying the "proper establishment" clause, and these are discussed below.

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on the grounds that she had applied before completing all the conditions set by the presidential pardon order and therefore a reinstatement of her rights could not be considered. See "Rwanda Court Upholds Election Ban on Opposition Leader", *The Guardian*, 13 March 2024, https://www.theguardian.com/world/2024/mar/13/rwanda-victoire-ingabire-barred-election (accessed 7 November 2024).

46 African Commission, Resolution on the Right to Freedom of Association, ACHPR/Res. 5(XI)92, 9 March 1992. For detailed discussion, see Fombad and Socher, *supra* n. 32.

47 Law Governing Political Organisations.

48 As of 14 July 2024, there were 11 registered political parties in Rwanda, but only two of them fielded candidates in the 2024 presidential election.

3.2.1 Founded by statute in accordance with the law

The law states that

> [a] political organisation shall be established upon the decision of the first general assembly of its members in which they approve its statutes and internal rules and regulations. Meetings preparing or deciding on the establishment of a political organisation shall comply with the laws governing public gatherings.[49]

The "legislation governing public gatherings" referred to is Article 19 of the Law Governing Political Organisations. This reads: "A political organisation that wishes to hold a public meeting of its members shall inform the relevant administrative authorities at least five (5) working days before the meeting. Notification modalities must conform to the relevant laws."

The requirement that the establishment of a political organisation needs the approval of the first general assembly of its members, with representation from across the nation, including of women, aims – on the face of it – to foster national unity and enhance representativeness, promote transparency and accountability, and establish a democratic foundation for political organisations. However, the requirement for inception meetings to comply with laws governing public gatherings has been used to delay or obstruct the formation of new organisations seen as a threat to the ruling RPF, mainly because the laws governing public gatherings are stringent and selectively enforced.

More specifically, conducting the first general assembly meeting to ratify a founding statute – required before a party can register – has been classified by the Rwandan authorities as an illegal activity if done by unregistered entities, with this leading to persecution and disruption. The law is a contradictory Catch-22 and fails to provide legal certainty: How can a political party that has not registered hold its founding meeting when authorisation for public meetings is granted only to registered legal entities?

Just note how the Democratic Green Party's efforts to register and nominate its leader, Frank Habineza, for the presidency were hindered for years.[50] Key issues included a lack of signed documents, disruptions al-

49 *Supra* n. 47.

50 The party failed more than 10 times to get the Gasabo district mayor's permission to hold the founding congress needed to register the party. See F Habineza, "Opposition Party Registration is Impossible in Rwanda Said Green Party Boss", *The Rwandan*, 20

legedly by RPF supporters, local authorities' denial of meeting permissions without police clearance, and unfulfilled promises of follow-up meetings by ministry officials before the final official recognition in 2013, but this coming just a few days before elections.[51] The alternative attempt at private inaugural meetings simply resulted in the disqualification of registration on the grounds of the illegal adoption of founding statutes or the imposition of punitive measures as stipulated in Article 46 of the Law Governing Political Organisations.

Similarly, the notification requirement for public meetings entails that political organisations have to inform administrative authorities at least five working days prior to any meeting. While the requirement is understandable as part of an effort to maintain public order, here by giving authorities the time to prepare for and manage public gatherings effectively, it has also been exploited to block political activities. In addition, public notification of a first general assembly compromises the privacy and confidentiality of members, exposing them to state-sponsored harassment and disruption. Freedom of assembly is curtailed by an enforced apathy.

Note, for example, the cases of Sylvain Sibomana and Anselme Mutuyimana. Sibomana, the former secretary-general of United Democratic Forces-Inkingi (FDU-Inkingi), was arrested in 2012 alongside party member Anselme Mutuyimana for an unauthorised meeting in a public bar. Mutuyimana was released in 2018 but died under mysterious circumstances in 2019, while Sibomana was released only in 2021.[52]

All in all, when handling party registration and regulation, the Rwandan authorities have adopted a presumption of guilt and unlawfulness that paves the way for excessive interference by them. By contrast, international standards on political-party registration emphasise that authorities should adhere to "a presumption in favour of the lawfulness of their establishment, objectives and activities, regardless of the formalities applicable for establishment or official recognition"; they also stress that "limitations must be prescribed by law, pursue a legitimate aim recognised by international stan-

May 2013, https://www.therwandan.com/opposition-party-registration-is-impossible-in-rwanda-said-green-party-boss/ (accessed 23 April 2024).

51 Commonwealth Election Observer Mission, "Chapter 4 Election Campaign and the Media", 2013, p 15, https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/288/285/2285?inline=1 (accessed 23 March 2024).

52 Human Rights Watch, "Rwanda: Crackdown on Opposition, Media Intensifies", *Human Rights Watch*, 19 October 2021, https://www.hrw.org/news/2021/10/19/rwanda-crackdown-opposition-media-intensifies (accessed 23 March 2024).

dards, necessary in a democratic society, and proportionate in measure and duration".[53] Balancing the need for public order with the right to political participation and expression remains a critical challenge in Rwanda.

3.2.2 Nationwide mobilisation and presence in the capital

Pursuant to Article 11 of the Law Governing Political Organisations, political parties are required to fulfil certain criteria. The provision reads as follows:

1) Founders of political organisations shall submit to the authority in charge of the registration of political organisations a letter requesting for their organisation to be registered with an acknowledgement for receipt.
2) The number of members who signed the statutes governing the political organisation shall be at least two hundred (200) in the whole country, with at least five (5) people having their domicile in each district.
3) Paragraphs 1 and 2 of this Article shall not apply to political organisations officially recognised in Rwanda that were established before the publication of this Organic Law in the Official Gazette of the Republic of Rwanda.

First, the requirement for founders to submit a registration request with an acknowledgement of receipt aims to ensure a formal, verifiable procedure for the establishment of political organisations, something which promotes transparency and accountability. However, the need for formal acknowledgment can lead to bureaucratic delays, especially when the process is not managed efficiently. The exemption of political organisations recognised before the publication of the Organic Law seeks to provide continuity for existing parties and ensure they are not unduly burdened by new regulations. This is beneficial for maintaining political stability; however, it also creates an uneven playing field where established parties have an advantage over new entrants, thus stifling political competition and innovation.

The requirement for at least 200 members to sign the statutes, with at least five members being from each district, seeks to ensure that political organisations have broad-based, geographically widespread support as well

53 Venice Commission, *supra* n. 1, paragraph 36.

as a centralised administrative hub. Moreover, it strives to foster inter-ethnic cooperation, recognising that this is essential for national unity since it tempers the ethnic politicking that led historically to exclusion, civil war, and genocide. However, these requirements present significant obstacles for nascent or smaller parties. They may well find the conditions hard to fulfil, as was evident in the difficulties (cited above) faced by the Democratic Green Party and Dalfa-Umurinzi.[54] The requirement can also work to unduly diminish competitive dynamics and the plurality of political representation. The formation of political parties becomes an arduous, expensive, elitist, and exclusionary process, in effect precluding small parties or individuals with limited resources from mobilising on a national scale and potentially marginalising regional, ethnic, or ideological groups.

3.2.3 Commitment to the nation-building agenda

The law insists that those wishing to establish political organisations must first conduct themselves in a manner that proves their commitment to "nation-building". This can be shown through conduct that desists from genocide, minimising past genocide history, and fanning divisiveness. The Constitution declares as follows:

> The State of Rwanda commits itself to upholding and ensuring respect for the following fundamental principles:
>
> (a) prevention and punishment of the crime of genocide, fight[ing] against denial and revisionism of genocide as well as eradication of genocide ideology and all its manifestations;
> (b) eradication of discrimination and divisionism based on ethnicity, region or any other ground, as well as promotion of national unity …[55]

With reference specifically to political parties, Article 57 states that "[p]olitical organisations are prohibited from basing themselves on race, ethnic group, tribe, lineage, ancestry, region, sex, religion or any other division which may lead to discrimination".

54 J Clover, "Rwandan Opposition Party Registers Days before September Vote Deadline", *Reuters*, 10 August 2013, https://www.reuters.com/article/us-rwanda-politics-id USBRE97903B20130810/ (accessed 10 May 2024).

55 Article 10 of the Constitution.

The principle of commitment to nation-building is reiterated in Article 7 of the Law Governing Political Organisations, which emphasises national unity and prohibits the establishment of political parties on divisive grounds such as race or ethnicity. Clauses 2 to 4 of the same article also provide as follows:

(2) Political organisation must constantly reflect the unity of the people of Rwanda, gender equality and complementarity, whether in the recruitment of members, putting in place organs of leadership and in their operations and activities.
(3) Each political organisation shall have at least thirty percent (30%) of posts in decision-making organs awarded to women.
(4) Management positions in all organs of a political organisation must be elected for.

Additionally, Article 34 of the same law states that "the conduct of political organisations and politicians shall not undermine the public order or the rights and freedoms of the individual in particular and of the people in general". Article 37 stipulates, furthermore, that during elections, politicians and political organisation must "avoid any speeches, writings and actions based or leading to discrimination or divisionism … [and must] respect their opponents and avoid disparaging or defaming them". They must also "inform Rwandans of the objectives and program of the political organisation aiming at building the nation".

These requirements are designed to ensure that political organisations adhere to legal boundaries and contribute to national cohesion. The Law Governing Political Organisations contains three particularly noteworthy points in its promotion of the nation-building agenda. Article 10(a) concerns the prevention and punishment of genocide and the eradication of genocidal ideology; Articles 10(b) and 57 promote the eradication of discrimination and divisionism and prohibit political organisations based on divisive grounds, doing so as a way of fostering national unity and social cohesion; and Article 7 calls for political organisations to reflect unity and gender equality – a progressive step designed to ensure inclusivity and the representation of women in decision-making positions. Read together, these clauses are meant to promote a culture of remembrance and justice in Rwanda, and to ensure that the horrors of the genocidal past, caused by the exclusionary ethnic political parties, are not repeated.

The nation-building clauses do have several loopholes, however, and these have been exploited by the ruling elite to undermine their political

opponents and shrink democratic space. Notably, the overly broad scope of "genocide ideology" has at times been exploited to suppress legitimate dissent and political opposition, thus stifling free speech and political pluralism.

Take Victoire Ingabire Umuhoza, for instance. Umuhoza, the leader of the unregistered FDU-Inkingi party, was sentenced to 15 years in prison for conspiracy and genocide denial for publicly advocating for the rights of Hutu refugees and criticising the state's own genocidal ideology.[56] In the *Ingabire Victoire Umuhoza* case, the ACtHPR found that this sentence was a violation of the International Covenant on Civil and Political Rights (ICCPR).[57] Umuhoza, through this case, sought to challenge the Rwandan government for violation of her rights protected under the ACHPR.[58] The court, in its ruling, reiterated that states have the right to enact laws that restrict freedom of expression but only if the restrictions meet four conditions: they are provided by law; serve a legitimate purpose; are necessary in a democratic society; and are proportionate to the achievement of a legitimate aim.[59]

In this case, the ACtHPR found that the Rwandan law meets the first two conditions but fails to satisfy the other two. It accepted that, given Rwanda's history of genocide, the law served the legitimate interest of national security and public order.[60] However, the ACtHPR held that political speech aimed at the government or officials, or speech that comes from public figures, "deserve[s] a higher degree of tolerance than others", and found that the restrictions imposed on Ingabire fell short of the other two conditions in that they were neither necessary in a democratic society nor proportional to the aims sought.[61]

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56 Although she received a presidential pardon in 2018 and formed the Development and Liberty for All (DALFA-Umurinzi) party in 2019, at the time of this writing (2024) her party had not yet been granted registration. See VU Ingabire, "Rwanda's Consensual Democracy Needs a Reset", *Al Jazeera*, 15 September 2022, https://www.aljazeera.com/opinions/2022/9/15/rwandas-consensual-democracy-needs-a-reset (accessed 24 March 2024). See also ACtHPR, *supra* n. 33, paragraphs 5–8, 32.

57 ACtHPR, *supra* n. 33, paragraph 173(viii)–(ix).

58 *Ibid*, paragraphs 77–78.

59 *Ibid*, paragraph 133.

60 *Ibid*, paragraphs 135–138, 139–141.

61 *Ibid*, paragraphs 141–142, 160–163, 173(viii)-(ix). See also ACtHPR, *Lohe Issa Konate v Burkina Faso*, App. No. 004/2013, Judgement, 5 December 2014, paragraph 155, which ruled that the right to freedom of expression protects opinions that "offend, shock or disturb".

Additionally, political leaders who deviate from the ideology of the ruling RPF government have been barred from running for presidential office. For example, Theoneste Niyitegeka, recognised for aiding genocide victims, was barred from the 2003 presidential election and later himself imprisoned for genocide in 2008.[62] Another example is Yvonne Idamange, a Tutsi genocide survivor, who was convicted in 2021 for inciting unrest and other offences after accusing the Rwandan government of exploiting the genocide and criticising the RPF's post-genocide actions in her YouTube videos.[63]

A second loophole is found in the imposition of a national identity on all political organisations in Rwanda. This creates a situation in which the law could be weaponised to arbitrarily deny the existence of minority groups and obstruct the formation of political parties that represent specific community interests: according to Rwandan law, associations or political parties based on self-identification by minority groups may not be established. Such a prohibition of regional or ethnic organisations based on minority or communal identities deviates from the best democratic practices to be found in international law, where the emphasis is on the right of minority groups to the freedom of association and self-identification necessary for aggregating their interests.[64] The quest for national unity and the prevention of genocide caused by ethnic mobilisation needs to be balanced with the need to protect the rights of minority groups. To curtail the erosion of minority groups' freedom of association, self-determination, and self-identification is to lay the basis for future political instability. The law needs to find a way to make the use of seemingly ethnically divisive language grounds for the rejection of the registration of minority political parties while not necessarily outlawing them from the outset.

62 US Department of State, "Rwanda 2013 Human Rights Report", Washington, United States Department of State, Bureau of Democracy, Human Rights and Labor (2013), p 13, https://2009-2017.state.gov/documents/organisation/220359.pdf (accessed 23 March 2024).

63 Human Rights Watch, "Rwanda: Alleged Genocide Mastermind Arrested: Fulgence Kayishema Caught after Two Decades; Should Face Swift, Fair Trial", *Human Rights Watch*, 2 June 2023, https://www.hrw.org/news/2023/06/02/rwanda-alleged-genocide-mastermind-arrested (accessed 23 March 2024).

64 See, for example, OSCE High Commissioner on National Minorities, *Handbook on Observing and Promoting the Participation of National Minorities in Electoral Processes*, Warsaw, OSCE Office for Democratic Institutions and Human Rights (2014), pp 29–32, which points out that party regulations which prohibit minority organisations violate international law. For an analysis of applicable international law, see Socher, *supra* n. 32.

The third loophole lies in the vagueness of highly abstract concepts such as sovereignty, unity, and division. Where the interpretation of such terms is left entirely to the discretion of officials appointed by the ruling party to the Rwanda Governance Board (RGB), these officials are in effect endowed with unchecked authority. In practice, the application and enforcement of principles of national unity and the like has been manipulated to exclude specific groups and ideologies from the political arena. Two examples highlight the dangers of this practice.

In 2001, Pasteur Bizimungu, Rwanda's first post-genocide president, was barred from registering his party to challenge the RPF. In 2004, he was arrested and imprisoned after being accused of inciting civil disobedience, associating with criminals, and embezzlement (though he was later granted a presidential pardon and released in 2007).[65] Another example is the case of Théophile Ntirutwa, a member of the Dalfa-Umurinzi opposition party, who in 2022 was sentenced by the High Court's Rwamagana chamber to seven years in prison. The accusation against him was of spreading false information or harmful propaganda with the intent to foment international opinion hostile to the Rwandan government.[66]

Such contentious prosecutions work to undermine pluralism, diminish the representativeness of the political system, and tarnish democratic quality as they have the effect of restricting political discourse to government-sanctioned interpretations of unity and division.

3.3 Party registration: Transparency or vulnerability?

The registration of political parties in Rwanda is a laborious process. This sub-section focuses on the requirement that a party's founding statutes and accompanying paperwork must be provided prior to registration.

65 Amnesty International, "Elections in Rwanda: Rwanda's Repressive Tactics Silence Dissent before Elections", *Amnesty International,* 5 September 2017, https://www.amnesty.org/en/latest/campaigns/2017/09/rwandas-repressive-tactics-silence-dissent-before-elections/ (accessed 23 March 2024).

66 Human Rights Watch, "Politician Convicted for Harming Rwanda's Image", *Human Rights Watch*, 18 January 2023, https://www.hrw.org/news/2023/01/18/politician-convicted-harming-rwandas-image (accessed 23 March 2024).

3.3.1 Detailed design of founding statutes

Article 14 of the Law Governing Political Organisations lays down the following guidelines for the submission of the paperwork necessary for a party's legal registration:

> The statutes governing a political organisation must especially indicate the following:
>
> 1. its full name;
> 2. its objectives;
> 3. its insignia;
> 4. its organs and their structure including the organ in charge of discipline and settlement of disputes and the organ in charge of audit;
> 5. its head office which must be in Rwanda;
> 6. members of its organs, modalities for their election and replacement, their term of office and their responsibilities;
> 7. requirements for membership, procedures for resignation and reasons for dismissal of members;
> 8. the legal representatives of a political organisation;
> 9. provisions related to the property;
> 10. provisions relating to the amendments of its statutes or its dissolution;
> 11. allocation of its assets in case of its dissolution.

Four of these registration conditions impact on the quality of democracy in ways that reveal both their intended benefits as well as their potential drawbacks. The first is the requirement for a political organisation to have its head office in Rwanda.

This measure seeks to ensure that the organisation's leadership is physically present in the country, an arrangement that stands to facilitate better coordination of party affairs, closer attention to local issues, and liability for, and control of, the actions, of party members. At the same time, the measure restricts the ability of those living abroad to participate in domestic political activities; put differently, it centralises control within the country and reduces the scope for external influences to challenge the givens of the current political landscape. Indeed, this stringent requirement for political-party formation is designed to serve as a deterrent against unauthorised political action, thereby allowing the ruling elite to enforce the law selectively and so suppress opposition and limit political pluralism.

This was evident in the way the National Electoral Commission prevented Diane Rwigara's participation in the 2017 elections, citing invalid signatures as well as the harassment and imprisonment of her supporters. Opposition figures thus face clear challenges in Rwanda, and such challenges are likely to lead to a culture of self-censorship in public life as citizens grow wary of legal harassment.[67]

Moreover, in the guidelines above, note the detailed requirements as regards the structure and functioning of political organisations, including their organs for discipline, dispute settlement, and auditing. These aim, at face value, to ensure transparency and accountability and prevent abuse of power and resources; such detailed statutory requirements promote the operational transparency of political parties, which in turn can enhance public trust in political processes. However, the measures also leave the door open for excessive bureaucratic control that stifles the independence of political parties and heightens their susceptibility to state interference. What is more, the guidelines impose administrative burdens that may discourage the formation and operation of smaller or emerging parties, thus impairing the overall inclusivity of the political landscape and the possibilities for the representation of diverse political voices.

A further stipulation in the guidelines is that members of the organs, their election modalities, terms of office, and responsibilities must be clearly defined. On the one hand, this aims to promote clarity, democracy, and order, by ensuring that everyone understands their roles and the rules governing their actions; on the other, it can lead to the creation of rigid structures that are difficult to change, that entrench existing power dynamics, and that pose significant challenges to any attempt to introduce necessary reforms or adapt to new political realities.

Similarly, the requirement for legal representatives and detailed provisions related to property and amendments to statutes or dissolution seeks to engender legal and financial accountability, thereby aiming to prevent misuse of resources and ensure that political organisations operate within the law. These provisions, however, can easily be exploited to exert control over political organisations, particularly if the processes for amendment or dissolution are cumbersome or subject to state approval, thus delaying or blocking changes that might threaten the current power structure.

67 Freedom House, "Freedom in the World 2018 – Rwanda", *UNHCR Refworld,* 1 August 2018, https://www.refworld.org/reference/annualreport/freehou/2018/en/121588 (accessed 17 March 2024).

Additionally, the allocation of assets in case of dissolution is necessary to prevent misuse of resources and ensure instead that the assets of a dissolved organisation are handled responsibly. Nonetheless, this can dissuade political organisations from dissolving, even when it might be in their best interests, due to the complexity and potential loss involved. In practice, these detailed statutory requirements can be manipulated to maintain the power of the current political elite and suppress dissenting voices. Ensuring a fair and transparent legal framework, with provisions that balance accountability with flexibility, could help address some of these flaws and create a more inclusive political environment.

3.3.2 Documentation accompanying registration applications

Pursuant to articles 10 and 12 of the Law Governing Political Organisations, political organisations are required to submit a formal registration request to the RGB accompanied by certified copies of their statutes, as well as by their addresses, insignia, programme information, and the names, identities, and criminal records of their representatives. The central role the RGB plays in registering political organisations helps to ensure consistency and oversight by maintaining a standardised approach to the registration and monitoring of political organisations. Nonetheless, centralisation can also lead to bureaucratic delays and raise the question of potential bias, particularly where the RGB is not perceived as an impartial actor.

To delve into the particulars, the requirement for political organisations to inform the RGB of their head office locations and representatives promotes transparency and accountability and enables authorities and the public to be aware of the structure and leadership of political parties. At the same time, this requirement can be seen as intrusive, especially when there are concerns about the misuse of such information for the purposes of control or harassment. Indeed, the registration requirements are comprehensive, and entail, among other things, the submission of the criminal records of representatives, certified copies of statutes, minutes of constituent assembly meetings, rules of procedure, and the certificates of legal representatives.

All of this serves to enhance transparency and accountability in political organisations by ensuring that they are well-structured and legally compliant, characteristics that testify to their legitimacy and seriousness. However,

the demand for such extensive documentation is burdensome, particularly for new or smaller organisations, and also stands to discourage political participation. Both the administrative load placed on the RGB and the discretionary power vested in it to approve registrations could be exploited to hinder the establishment of new parties and disqualify existing ones, hence jeopardising the democratic process.[68] Detailed documentation, furthermore, can be used to identify the politically active and target them for harassment and persecution.

Several well-known cases underline the reality of these dangers in Rwanda. In 2019, Syldio Dusabumuremyi, the co-ordinator of the United Democratic Forces (FDU-Inkingi) party, was murdered, while, in 2016, his fellow activist, Illuminée Iragena, went missing in a suspected forced disappearance. Similarly, 13 October 2021 (a day prior to Ingabire Day, an annual event raising awareness about repression in the country) saw the arrest of several Dalfa-Umurinzi party members, including Victoire Ingabire's assistant, Joyeuse Uwatuje.[69]

Turning to Article 12(c) of the Law Governing Political Organisations (requiring any criminal records for public office candidates), it aims to deter criminals from taking influential roles in political life and prevent negative role-modelling. However, this requirement can also suppress opposition by disqualifying potential candidates whose only criminal records result from politically motivated charges, thereby hindering party-formation and election participation.

Once approved, political parties must publish – at their own expense – their founding statutes in the Official Gazette of the Republic of Rwanda. The Law Governing Political Organisations states in Article 17 that

1) [t]he statutes of a political organisation are published in the Official Gazette of the Republic of Rwanda and the related fees are paid by the concerned political organisation.
2) When a political organisation is approved, it can start to run its activities while waiting for the publication of its statutes in the Official Gazette of the Republic of Rwanda. The publication of its statutes in the Official Gazette of the Republic of Rwanda does not exceed three (3) months.

68 International watchdogs allege that the RGB, a government-controlled entity, has denied the registration of opposition parties at its discretion and without giving proper justification. See Freedom House, *ibid.*

69 Human Rights Watch, *supra* n. 52.

Publishing the statutes of a political organisation in the Official Gazette ensures transparency and public accessibility: it allows the public and other stakeholders to be informed about the foundational rules and regulations governing political organisations. However, the cost of publication, which must be borne by the political organisation, could be a financial burden, especially for smaller or newly established parties, in the context of what is one of the poorest and most poverty-afflicted countries in the world.

Allowing political organisations to start their activities upon approval (rather than after the actual publication of their statutes) is practical. This enables organisations to begin their operations without unnecessary delays, fostering political engagement and activity. On the downside, there could be some risk involved in their operating without full public scrutiny during this interim period, leading to legal challenges if the statutes are later found to be problematic. The obligation to publish statutes in the Official Gazette, coupled with potential delays, can obstruct a party's prompt and efficient operationalisation.

The three-month deadline for publication helps prevent indefinite delays and ensures that the public can access this information in a timely manner. However, if the process of approval and publication is not efficiently managed, this could result in delays that hinder the transparency and accountability of political organisations.

3.4 Regulation of political-party financing

Political plurality entails that political parties need financial autonomy and protection from the influence of powerful individuals to operate freely and maintain political independence. The Law Governing Political Organisations creates a complex financial landscape for political parties. It combines the prohibition of foreign and independent funding with restrictive conditions for state funding. These are discussed in this sub-section.

3.4.1 Fundraising and financial transparency

Article 24 of the Law Governing Political Organisations states as follows:

> A political organisation or a politician may receive donations and bequests. When the donations and bequests have the value of at least one million Rwandan francs (FRW 1,000,000), a political organisation or a

politician informs in writing the authority in charge of registration of political organisations within thirty (30) days from the date of reception, indicating the donor, the type and value of donations, with a copy to the Office of the Ombudsman.

(2) A political organisation or a politician are not allowed to receive donations and bequests granted by:
   1. foreigners;
   2. foreign States;
   3. non-governmental organisations;
   4. faith-based organisations;
   5. foreign business companies or industries, and organisations owned by foreigners or in which foreigners are shareholders.

The requirement to report donations and bequests valued at one million Rwandan francs or more ensures transparency and accountability in political financing. Corruption watchdogs point out that "unregulated or poorly managed money in politics is often considered as one of the biggest threats to democracy worldwide and means that the political playing field is not level".[70] The provision in Article 24 thus helps prevent corruption and the exertion of undue influence by making the sources of significant funds public knowledge. However, the administrative burden of reporting might discourage some donors, especially if the process is perceived as cumbersome or if there are concerns about privacy and political repercussions. The requirement to report private donors to the government deters donors due to the potential for government monitoring and the consequent risk of targeted harassment and persecution.

As regards the prohibition on receiving donations from foreigners, foreign states, non-governmental organisations, faith-based organisations, and foreign businesses, its aim is to protect the political independence and integrity of Rwanda. Yet while this measure prevents external entities from exerting undue influence on domestic politics, it limits the financial resources available to political organisations, particularly those that might rely on international support for their activities. As a result, they are cut off from the support of the international allies and partners who had previously fi-

70 U4 Anti-Corruption Helpdesk, "The Role of Political Party Finance Reform in the Transition from Dominant to Competitive Party Systems", *Transparency International*, 2019, p 2, https://www.u4.no/publications/the-role-of-political-party-finance-reform-in-the-transition-from-dominant-to-competitive-party-systems.pdf (accessed 11 November 2024).

nanced political parties in Rwanda (including the RPF) as well as elsewhere in Africa.

The following example illustrates some of the issues at stake. The main opposition candidate in the 2003 presidential election was Faustin Twagiramungu, the first post-genocide prime minister. He was supported in his campaign by the Alliance for Democracy, Equity and Progress (ADEP-Mizero), but this was denied legal status on the grounds that it received foreign funding.[71] In addition, individuals who had added their names to the official list of people endorsing his candidacy were subjected to harassment.[72] Forced to contest as an independent candidate, Twagiramungu lost the presidential bid.

It is also to be noted that the operational capacity of emergent political parties is undermined, since the law requires them to mobilise across the country as a precondition for registration despite limiting their sources of funding. This makes it challenging for opposition parties to sustain activities and compete effectively.

Lastly, the requirement to inform the Office of the Ombudsman adds a further layer of oversight to help detect and prevent corruption. This is beneficial for maintaining the integrity of political processes. However, the effectiveness of this measure depends on the impartiality and efficiency of the Office of the Ombudsman. If the office is not perceived as independent, this requirement could be seen as a tool for political control rather than genuine oversight.

3.4.2 Government financial support to political parties

Article 28 of the Law Governing Political Organisations sets out the state's role in providing financial support to political parties and guarantees equal grants to all registered political organisations as well as additional campaign support. It reads:

> State assets cannot be used in the activities or interest of a political organisation. However, the State provides grant as follows:

71 Amnesty International, *Rwanda: Setting the Scene for Elections: Two Decades of Silencing Dissent in Rwanda*, London, Amnesty International (2017), p 12, https://www.amnesty.org/en/wp-content/uploads/2023/06/AFR4765852017ENGLISH.pdf (accessed 11 November 2024).

72 *Ibid*, p 12.

1. each financial year, the Government equally provides registered political organisations with grants through the authority in charge of registration of political organisations, according to the State's financial resources;
2. the Government provides in the budget grants for political organisations and independent candidates to support campaign activities.

The State's grant provided for in item 2 of paragraph 2 of this Article is given to a political organisation or an independent candidate that has scored at least five per cent (5%) of the votes cast.

The prohibition on using state assets for political activities is designed to prevent the abuse of public resources for partisan purposes. This can help maintain a level playing field for parties and prevent the abuse of state power for political gain. However, the effectiveness of this provision depends on strict enforcement and monitoring. A lack of proper enforcement means that state resources can still be used, albeit indirectly, to benefit certain political groups. Such abuse undermines the democratic process by giving undue advantage to the incumbent.[73]

However, it should be noted that the impact of such abuse on the probability of change through elections should not be exaggerated. Historical examples from countries such as Benin, Cape Verde, Ghana, Kenya, Madagascar, Malawi, Mali, São Tomé and Príncipe, Senegal, and Zambia show that incumbency alone does not guarantee a continued hold on power.[74] If access to state funds guaranteed electoral success, one would not have seen changes of power through elections in countries like Ghana, Kenya, Malawi, Senegal, and Zambia in 2021, or the loss of the 2024 presidential elections in Botswana by former president Masisi.

Despite this, the abuse of state resources remains a significant problem in Africa. Legislative provisions against it, such as requirements for civil servants to be neutral or bans on the use of public resources for campaign purposes, are not particularly effective. Tellingly, in Rwanda, the Office of the Ombudsman conducted investigations into political finance during the

73 M Ohman, "The State of Political Finance Regulations in Africa", 14 (2016) *International IDEA Discussion Paper,* p 7, https://www.idea.int/sites/default/files/publications/the-state-of-political-finance-regulations-in-africa.pdf (accessed 10 November 2024).

74 M Ohman, The Heart and Soul of the Party: Candidate Selection in Ghana and Africa, Uppsala, Uppsala University (2004), pp 70–71.

2010 and 2013 elections but released no information about the results.[75] The political finance regulatory framework in Rwanda is weak, with few laws addressing the issue and practical enforcement being limited.

Although there is a lack of concrete information about political finance in Rwanda that goes beyond detail on formal regulation, the dataset developed by the Money, Politics and Transparency (MPT) project provides some vital insights.[76] The dataset includes a Political Finance Index with scores between 0 (the worst score) and 100 in different categories (see the table below). For example, Kenya scores highest overall with 42, reflecting strong regulations and enforcement, while Malawi scores lowest with 5, indicating significant gaps in its political financing system. The data indicates that Rwanda has a composite score of 30, reflecting a mixed performance in political financing regulations. While Rwanda excels in providing direct and indirect public funding (score of 59), it faces significant challenges in monitoring and enforcement (score of 65). Compared to other African countries, Rwanda's regulatory framework shows both strengths and areas needing improvement, particularly in ensuring effective oversight and transparency.

Table 1: Political finance scores for selected African countries in the MPT dataset[77]

	Composite score	In law/ practice	Direct and indirect public funding	Contribution and expenditure restrictions	Reporting and public disclosure	Third-party actors	Monitoring and enforcement
Botswana	18	23/13	18	30	8	0	35
Ghana	26	36/22	21	23	28	0	58
Kenya	42	67/18	43	72	31	16	46
Malawi	5	6/2	25	0	0	0	0
Nigeria	29	45/17	31	43	28	0	42
Rwanda	30	28/41	59	5	24	0	65
South Africa	36	36/47	81	0	17	0	82

75 *Ibid*, p 10.
76 *Ibid*, p 3.
77 *Ibid*, p 4.

As indicated above, reporting on political finance and expenditure during campaigns does not take place in Rwanda: candidates have no reporting obligations. This means that very little meaningful political finance data is reported, and even less is readily accessible to the public. The public can only access submitted reports upon request, which limits transparency and accountability in political financing.[78] Arguably, this low level of compliance is due to the fear among opposition parties that revealing their sources of income would lead to a loss of such income and reprisals against their donors. In addition, many political parties simply lack the administrative capacity to track their own finances effectively.[79]

The provision of equal grants to registered political organisations each financial year aims to promote fairness and support the functioning of political parties. In other words, it seeks to ensure that all registered parties have some level of financial support (crucial for their operations and activities). However, the amount of the grant is dependent on the state's financial resources. In practice, this means that there can be insufficient funding available for political organisations, especially the smaller or newly established ones.

That the power to allot such support is in the hands of the government gives the ruling RPF unchecked power to control the opposition through financial sanctions and conditionalities. The dominance of the ruling party can be consolidated by rewarding compliant parties and withholding funds from the opposition. As the MTP survey shows, the RPF government has adopted a granting approach in which political parties do not have full control of these resources. Instead of receiving subsidies in cash, they are reimbursed for the activities they organise.[80] This system imposes limits on the direct financial autonomy of political parties.

Finally, it is worth considering the allocation of budget grants for campaign activities to parties and independent candidates that secure at least 5 per cent of votes cast. This undoubtedly encourages political participation

78 Ibid.

79 M Ohman, "Africa", in E Falguera, S Jones, and M Ohman (eds.), *Funding of Political Parties and Election Campaigns: A Handbook on Political Finan*ce, Stockholm, International IDEA (2014), p 59.

80 CB Camargo and T Gatwa, *Informal Governance and Corruption – Transcending the Principal Agent and Collective Action Paradigms: Rwanda Country Report*, Basel, Basel Institute on Governance (2019), p 13 https://baselgovernance.org/sites/default/files/2019-04/rwanda.informalgovernance.country_report.pdf (accessed 11 November 2024).

and competition and supports candidates who have demonstrated a minimum level of public support, helping them to campaign more effectively. However, the 5 per cent threshold excludes new candidates or previously smaller parties that have grown bigger after the last elections. The 5 per cent criterion inadvertently favours established parties with a history of electoral success, thereby reinforcing their dominance.

In other words, by basing finance allocations on previous election performance, the system fails to account for shifts in public support that may have occurred since the elections. This means that, even if a party's popularity has waned significantly over the past five to seven years, it will still receive state funding, giving it an unfair advantage over newer or smaller parties that may have gained traction in the meantime. Established parties with their record of electoral participation are guaranteed funding, regardless of their current levels of support. An electoral contest between an older party with state funding and a newer party without it cannot pass the level-playing-field test which is necessary to meet in order to satisfy the criterion of "fairness" in democratic elections.

3.5 Dialogue and consensus-building provisions

At the heart of the Rwandan political system are the principles of power-sharing and decision-making by consensus. These principles are enshrined in Article 62 of the 2003 Constitution. Thus, for example, Article 62 states that the President cannot belong to the same party as the Speaker of Parliament, while no single party is allowed to have more than 50 per cent of total membership in the cabinet.

The principle of power-sharing is reinforced by the electoral system, where elections to the lower house are based on proportional representation. In addition, Article 59 of the Constitution and articles 49–50 of the Law Governing Political Organisations provide for the establishment of a National Consultative Forum of Political Organisations (NCFPO). This is intended to promote power-sharing and consensual decision-making, with long-term outcomes to include moderating inter-party hostilities, fostering cooperative behaviour, and cultivating a culture of elite compromise and political accommodation, with the ultimate aim of achieving a consociational democracy.

Consociational democracy is praised for its inclusiveness, pluralism, moderation, and stability.[81] This system fosters inter-group cooperation and representation, and the participation of diverse interests. By encouraging multiparty consensus and compromise, it reduces the potential for violence and instability. This is achieved through mechanisms such as power-sharing arrangements, proportional representation, and mutual vetoes. Together, they ensure that all significant groups have a stake in governance and decision-making processes. These mechanisms help to build trust among different political factions, mitigate conflicts, and create a stable political environment where diverse groups can coexist peacefully.

Differing from the strict Lijphartan model, however, Rwanda's emphasis on cooperation between parties with cross-country mobilisation and membership aligns with an alternative model of consociational democracy. This is one that aims at centripetalism by transcending group divisions and encouraging inter-group integration and competition.[82] As operationalised in Rwanda, centripetalism entails the adoption of a deliberate policy to promote multi-ethnic political parties and create electoral incentives that encourage politicians to seek support from a broad spectrum of the population rather than only their own ethnic or regional groups. This approach includes mechanisms such as cross-cutting electoral districts (which require candidates to appeal to voters from diverse backgrounds) and policies that incentivise coalition-building across ethnic lines. By fostering inter-group cooperation and competition, centripetalism aims to integrate different segments of society, reduce ethnic tensions, and create a more stable and inclusive political environment.

The Rwandan experience shows that in practice this works to reduce the opposition's role to a merely consultative one, where it is overshadowed by the ruling party's agenda and its ideology of "consensus politics" and "Rwandaness". It is seen as a strategic move to co-opt opposition voices, effectively making them extensions of the ruling party and weakening their ability to hold the government accountable and present alternative policy

81 This is emphasised in A Lijphart, "Consociational Democracy", 21 (1969) *World Politics*, pp 207–225. See also B Barry, "Political Accommodation and Consociational Democracy", 5 (1975) *British Journal of Political Science*, pp 477–505; J McGarry and B O'Leary, "Consociational Theory, Northern Ireland's Conflict, and its Agreement. Part 1: What Consociationalists can Learn from Northern Ireland", 41 (2006) *Government and Opposition*, pp 43–63.

82 For more detail, see D Horowitz, "Electoral systems: A Primer for Decision Makers", 14 (2003) *Journal of Democracy*, pp 115–127.

options. In this way, parties that participated in the consultative forum (such as the Republican Democratic Movement, the Social Democratic Party, the Liberal Party, and the Centrist Democratic Party) and which were initially active post-genocide, are now perceived as mere satellites of the ruling RPF.[83] Conspicuously, these parties did not field candidates in the 2003 presidential elections but came together to endorse and support the RPF's Paul Kagame. Indeed, in 2003, Parliament voted to dissolve Rwanda's second largest political party, the Mouvement Démocratique Republicain (MDR), following a parliamentary commission report that accused the party of propagating a "divisive" ideology.[84] A critical examination of these examples of co-optation reveals the RPF government's effort to maintain control under the pretext of legal and democratic governance. This raises considerable concerns about the nation's democratic health and true level of pluralism.

As for the NCFPO, it is plagued by opacity, elitist aloofness, and capture by ruling-party interests. This assertion is supported by several findings. For example, a 2010 survey by the Senate of Rwanda shows limited citizens' awareness of the NCFPO: only 63 per cent of respondents were aware of its existence, while 34 per cent said they had no knowledge of it.[85] Notably, 68 per cent of the respondents were members of political parties and thus comprised politically active citizens, yet only 22 per cent expressed satisfaction with the NCFPO. Comparing the 63 per cent who knew about the NCFPO with the 22 per cent who are satisfied with its conduct, it becomes evident that the NCFPO has ceased to serve the interests of the Rwandan people. Crucially, in the 2001 district elections, only councillors and district executives who endorsed the policy of national unity and reconciliation were elected.[86]

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83 See National Democratic Institute, *NDI Assessment of Rwanda's Pre-Election Political Environment and the Role of Political Parties*, Washington DC, National Democratic Institute (2003), p 6, https://www.ndi.org/sites/default/files/1642_rw_assessment_092203_0.pdf (accessed 13 March 2024).

84 Human Rights Watch, "Rwanda Preparing for Elections: Tightening Control in the Name of Unity", *Human Rights Watch Backgrounder*, 8 May 2003, https://www.hrw.org/legacy/backgrounder/africa/rwanda0503bck.htm (accessed 11 November 2024). See also "Parliament Upholds Ban on Bizimungu's Party", *The New Humanitarian*, 28 June 2001, https://www.thenewhumanitarian.org/fr/node/191824 (accessed 10 November 2024).

85 See the results in Rwanda Parliament and the Senate, *supra* n. 16, pp 248, 250–251.

86 Camargo and Gatwa, *supra* n. 80, p 13.

3.6 Punitive measures on politicians

Article 42 of the Law on Political Organisations stipulates that politicians who violate certain articles (discussed above) may receive a formal warning or be removed from their political positions, though they retain the right to defend themselves against accusations. This provision ensures that politicians have a chance to challenge accusations in court, something crucial to the protection of their freedoms as well as the integrity of the political parties themselves.

Article 46 of the Law Governing Political Organisations specifies the following offences and penalties:

I. Illegally forming or leading a political organisation, or falsely claiming membership, results in imprisonment (1–2 years) and/or a fine (FRW 1,000,000 – FRW 2,000,000).
II. Leading or claiming membership in an organisation that operates post-registration cancellation incurs imprisonment (3–5 years) and/or a fine (FRW 3,000,000 – FRW 5,000,000).

From a positive perspective, these stipulations can be read as a safeguard against the misuse of political entities for unlawful purposes and as helping to ensure that political organisations operate within the bounds of the law. As such, they potentially enhance the integrity of political processes and institutions. However, the stringent penalties attached to them can also be viewed as detrimental to political party viability, inclusion, autonomy, and capacity. They may deter individuals from engaging in political activities for fear of the severe repercussions that can follow any misstep, whether intentional or accidental. This leads to a chilling effect on political participation and a reduction in the diversity of political discourse – both essential components of a vibrant democracy.

The quality of democracy is inherently linked to the freedom and capacity of political parties to operate without undue restrictions. The ACDEG, as well as international protocols such as the ICCPR, emphasise the importance of inclusive participation and the autonomy of political parties as fundamentals of democratic governance.[87] Restrictions that excessively penalise political participation can undermine these principles, potentially affecting the quality of democracy by limiting the spectrum of political

87 See articles 3(11), 32(6) and (7) of the ACDEG in African Union, *supra* n. 42, and Article 25 of the ICCP.

ideas and the ability of citizens to freely associate and express their political preferences.

Article 46 of the Law Governing Political Organisations details sanctions against political organisations that fail to comply with specific provisions on financial accountability and transparency. These range from a formal warning to the invalidation of their registration certificate, while organisations that accept illegal contributions may be suspended for up to five years, with all such contributions eligible for confiscation by the government. The sanctions, especially when applied during elections, significantly restrict the operational freedom of political parties. They potentially consolidate the ruling party's dominance through their imposition of financial penalties on opposition groups. The requirement for an investigation by the Senate prior to the imposition of certain sanctions introduces a layer of legislative oversight, while the publication of the final decision in the Official Gazette ensures transparency. However, these measures can also be seen as a means for the government to exert control over political organisations, thereby affecting their autonomy and ability to function effectively within the political landscape of Rwanda.

4. Conclusion

Rwanda is arguably one of the few African countries which enjoy comprehensive constitutional provisions for recognising and guaranteeing the rights and obligations of political parties as stipulated in regional laws and international standards. The Constitution provides for legislation that regulates political organisations and specifies the extent of their rights and obligations. However, the constitutionalisation of the rights and duties of parties in Rwanda presents a paradoxical situation, one in which democratic promise is always overshadowed by securocratic control.

After the 1994 genocide, the historical and political evolution of party constitutionalisation produced a legal and institutional framework that, while ostensibly supporting multiparty democracy, simultaneously imposes constraints that undermine the autonomy and diversity of political representation. This duality results in a "guided paper democracy", where the semblance of pluralism is undercut by regulations that favour the ruling party's dominance. This yields the bitter lesson that inserting clauses that recognise and guarantee the existence, rights, and obligations of political parties in the constitution of a country is not a strategy that, at a stroke, can resolve authoritarian hegemony of one-party dominant regimes. Indeed,

such provisions can, paradoxically, serve as an enabler of authoritarian control.

In the face of the weaponisation of the Constitution against political opponents by the ruling party, and to safeguard the future of democracy and human rights, policy reforms are necessary. These should work to reconcile the dual objectives of security and liberty, ensuring that the regulatory framework for political parties not only formally acknowledges democratic structures but also fosters genuine political pluralism. Such reforms should seek to instantiate the principles of autonomy, a balanced party system, and clear separation of state and party.

The Rwandan case holds valuable lessons for anyone interested in sub-Saharan Africa's democratic and constitutional development. It highlights the importance of a constitutional framework that protects the rights and functions of political parties while promoting an inclusive and competitive political environment. Addressing the challenges identified in this study could pave the way for a more robust and sustainable democracy, one in which human rights and political participation are not mere formal abstractions but lived realities. By drawing on Rwanda's experience, this chapter contributes to the broader discourse on democracy and constitutionalism in Sub-Saharan Africa. It calls for a nuanced understanding of party constitutionalisation, one that recognises its potential to both support and suppress democratic ideals. The future of democracy in securocratic states hinges on the delicate balance between security imperatives and the fundamental tenets of liberty and political diversity.

References

Books, articles, chapters in books, and others

"Divided by Ethnicity", *United States Holocaust Memorial Museum*, September 2021, https://www.ushmm.org/genocide-prevention/countries/rwanda/divided-by-ethnicity (accessed 23 March 2024)

"Parliament Upholds Ban on Bizimungu's Party", *The New Humanitarian*, 28 June 2001, https://www.thenewhumanitarian.org/fr/node/191824 (accessed 10 November 2024)

AFP, "Rwanda Court Upholds Election Ban on Opposition Leader", *The Guardian*, 13 March 2024, https://www.theguardian.com/world/2024/mar/13/rwanda-victoire-ingabire-barred-election (accessed 7 November 2024)

Amnesty International, "Elections in Rwanda: Rwanda's Repressive Tactics Silence Dissent Before Elections." *Amnesty International*, 5 September 2017, www.amnesty.org/en/latest/campaigns/2017/09/rwandas-repressive-tactics-silence-dissent-before-elections/ (accessed 23 March 2024)

Amnesty International, *Rwanda: Setting the Scene for Elections: Two Decades of Silencing Dissent in Rwanda*, London, Amnesty International (2017), https://www.amnesty.org/en/wp-content/uploads/2023/06/AFR4765852017ENGLISH.pdf (accessed 11 November 2024)

Barry B, "Political Accommodation and Consociational Democracy", 5 (1975) *British Journal of Political Science,* pp 477–505

Baxter P and Jack S, "Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers", 13 (2008) *The Qualitative Report*, pp 544–559

Beach D and Pedersen RB, *Process-tracing Methods: Foundations and Guidelines*, 2nd ed, Michigan, University of Michigan Press (2019)

Bennett A and Checkel JT (eds.), *Process Tracing: From Metaphor to Analytic Tool*, Cambridge, Cambridge University Press (2015)

Bogaards M, "Counting Parties and Identifying Dominant Party Systems in Africa", 43 (2004) *European Journal of Political Research*, pp 173–197

Borz G, "Justifying the Constitutional Regulation of Political Parties: A Framework for Analysis", 38 (2017) *International Political Science Review/Revue internationale de Science Politique*, pp 99–113

Camargo CB and Gatwa T, *Informal Governance and Corruption – Transcending the Principal Agent and Collective Action Paradigms: Rwanda Country Report*, Basel, Basel Institute on Governance (2019), https://baselgovernance.org/sites/default/files/2019-04/rwanda.informalgovernance.country_report.pdf (accessed 11 November 2024)

Carothers C, "The Surprising Instability of Competitive Authoritarianism", 29 (2018) *Journal of Democracy*, pp 129–135

Chemouni B, "The Political Path to Universal Health Coverage: Power, Ideas and Community-based Health Insurance in Rwanda", 106 (2018) *World Development*, pp 87–98

Clover J, "Rwandan Opposition Party Registers Days before September Vote Deadline", *Reuters*, 10 August 2013, https://www.reuters.com/article/us-rwanda-politics-idUSBRE97903B20130810/ (accessed 10 May 2024)

Commonwealth Election Observer Mission, "Chapter 2 Political Background", Commonwealth, (2013), https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/288/285/2283?inline=1 (accessed 26 October 2024)

Commonwealth Election Observer Mission, "Chapter 4 Election Campaign and the Media", 2013, https://www.thecommonwealth-ilibrary.org/index.php/comsec/catalog/download/288/285/2285?inline=1 (accessed 23 March 2024)

Diamond L, "Elections without Democracy: Thinking about Hybrid Regimes", (13) (2002) *Journal of Democracy,* pp 21–35

Erdmann G and Basedau M, "Problems of Categorising and Explaining Party Systems in Africa", *GIGA Working Papers*, 40 (2007), ssrn.com/abstract=978166 or dx.doi.org/10.2139/ssrn.978166 (accessed 16 July 2024)

Freedom House, "Freedom in the World 2018 – Rwanda", *UNHCR Refworld*, 1 August 2018, www.refworld.org/reference/annualreport/freehou/2018/en/121588 (accessed 17 March 2024)

Gerring J, *Case Study Research: Principles and Practices*, Cambridge, Cambridge University Press (2007)

Golooba-Mutebi, F, "Collapse, War and Reconstruction in Rwanda: An Analytical Narrative on State-Making." *Crisis States Research Centre* (2008), www.lse.ac.uk/international-development/Assets/Documents/PDFs/csrc-working-papers-phase-two/wp28.2-collapse-war-and-reconstruction-in-rwanda.pdf (accessed 25 March 2024)

Habineza F, "Opposition Party Registration is Impossible in Rwanda Said Green Party Boss", *The Rwandan,* 20 May (2013), www.therwandan.com/opposition-party-registration-is-impossible-in-rwanda-said-green-party-boss/ (accessed, 23 April 2024)

Horowitz D, "Electoral Systems: A Primer for Decision Makers", 14 (2003) *Journal of Democracy*, pp 115–127

Human Rights Watch, "Politician Convicted for Harming Rwanda's Image", *Human Rights Watch*, 18 January 2023, www.hrw.org/news/2023/01/18/politician-convicted-harming-rwandas-image (accessed 23 March 2024)

Human Rights Watch, "Rwanda Preparing for Elections: Tightening Control in the Name of Unity", *Human Rights Watch Backgrounder*, 8 May 2003, https://www.hrw.org/legacy/backgrounder/africa/rwanda0503bck.htm (accessed 11 November 2024)

Human Rights Watch, "Rwanda: Alleged Genocide Mastermind Arrested: Fulgence Kayishema Caught after Two Decades; Should Face Swift, Fair Trial", *Human Rights Watch,* 06 June (2022), www.hrw.org/news/2023/06/02/rwanda-alleged-genocide-mastermind-arrested (accessed 23 March 2024)

Human Rights Watch, "Rwanda: Crackdown on Opposition, Media Intensifies", *Human Rights Watch*, 19 October 2021, https://www.hrw.org/news/2021/10/19/rwanda-crackdown-opposition-media-intensifies (accessed 23 March 2024)

Ingabire UV, "Rwanda's Consensual Democracy Needs a Reset", *Al Jazeera*, 15 September 2022, www.aljazeera.com/opinions/2022/9/15/rwandas-consensual-democracy-needs-a-reset (accessed 24 March 2024)

Ingelaere B, Verpoorten M, Desrosiers ME, and Reyntjens F, *Genocide, Ideology and Politics in Rwanda,* New York, Routledge (2018)

Levitsky S and Way LA, "The Rise of Competitive Authoritarianism", 13 (2002) *Journal of Democracy*, pp 51–65

Lijphart A, "Consociational Democracy", 21 (1969) *World Politics*, pp 207–225

Mainwaring S, "From Representative Democracy to Participatory Competitive Authoritarianism: Hugo Chávez and Venezuelan Politics", 10 (2012) *Perspectives on Politics*, pp 955–967

Mamdani M, When Victims Become Killers: Colonialism, Nativism and the Genocide in Rwanda, Princeton, NJ, Princeton University Press (2001)

McDoom OS, "Securocratic State-building: The Rationales, Rebuttals, and Risks Behind the Extraordinary Rise of Rwanda After the Genocide", 121 (2022) *African Affairs*, pp 535–567

McGarry J, O'Leary B, "Consociational Theory, Northern Ireland's Conflict, and Its Agreement. Part 1: What Consociationalists Can Learn from Northern Ireland", 41 (2006) *Government and Opposition*, pp 43–63

Munyarugerero F-X, Reseaux, Pouvoirs, Oppositions: La Compétition Politique au Rwanda, Paris, Editions l'Harmattan (2003)

National Democratic Institute, *NDI Assessment of Rwanda's Pre-Election Political Environment and the Role of Political Parties*, Washington DC, National Democratic Institute (2003), https://www.ndi.org/sites/default/files/1642_rw_assessment_092203_0.pdf (accessed 13 March 2024)

Newbury C, "Background to Genocide: Rwanda", 23 (1995) *Issue: A Journal of Opinion*, pp 12–17

Niesen P, "Political Party Bans in Rwanda 1994–2003: Three Narratives of Justification", 17 (2010) *Democratization*, pp 709–729

Nkunzumwami E, La Tragédie Rwandaise: Historique et Perspectives, Paris, L'Harmattan (1996)

Nwokora Z and Pelizzo R, "Measuring Party Constitutionalisation: A Comparative Study of 144 Parties from 20 African Countries", 22 (2016) *Party Politics*, pp 521–533

Ohman M, "Africa", in E Falguera, S Jones, and M Ohman (eds.), *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*, Stockholm, International IDEA (2014), p 59

Ohman M, "The State of Political Finance Regulations in Africa", 14 (2016) *International IDEA Discussion Paper*, p 7, https://www.idea.int/sites/default/files/publications/the-state-of-political-finance-regulations-in-africa.pdf (accessed 10 November 2024)

Ohman M, The Heart and Soul of the Party: Candidate Selection in Ghana and Africa. Uppsala, Uppsala University (2004)

OSCE High Commissioner on National Minorities, *Handbook on Observing and Promoting the Participation of National Minorities in Electoral Processes* Warsaw, OSCE Office for Democratic Institutions and Human Rights (2014)

Palmier L "Review of Guided Democracy, by TK Tan and Hong Lee Oey", 7 (1973) *Modern Asian Studies*, pp 296–305

Reyntjens F, "Rwanda, Ten Years On: From Genocide to Dictatorship", 103 (2004) *African Affairs*, pp 177–210

Ruhanya P and Gumbo B, "The Securocratic State: Conceptualising the Transition Problem in Zimbabwe", 8 (2023) *Third World Thematics: A TWQ Journal*, pp 219–237

Rwanda Parliament and the Senate, *Political Pluralism and Power Sharing*, Kigali, Rwanda, Parliament and the Senate (2010), https://www.parliament.gov.rw/fileadmin/user_upload/Parliament/Research/Political_Plurarisme_and_Power_sharing_in_Rwanda.pdf (accessed 7 November 2024)

Strauss S and Waldorf L (eds.), *Remaking Rwanda: State Building and Human Rights after Mass Violence*, Madison, University of Wisconsin Press (2011)

Strauss S, *The Order of Genocide: Race, Power, and War in Rwanda*, Ithaca and London, Cornell University Press (2006)

Tull DM and Mehler A, "The Hidden Costs of Power Sharing: Reproducing Insurgent Violence in Africa", 104 (2005) *African Affairs*, pp 375–398

U4 Anti-Corruption Helpdesk, "The Role of Political Party Finance Reform in the Transition from Dominant to Competitive Party Systems", *Transparency International,* 2019, https://www.u4.no/publications/the-role-of-political-party-finance-reform-in-the-transition-from-dominant-to-competitive-party-systems.pdf (accessed 11 November 2024)

United Nations, "Outreach Programme on the 1994 Genocide against the Tutsi in Rwanda and the United Nations", n.d., http://www.un.org/en/preventgenocide/rwanda/historical-background.shtml#prior-to-colonial-era (accessed 23 October 2024)

US Department of State, Bureau of Democracy, Human Rights and Labor, "Country Reports on Human Rights Practices for 2013", United States Department of State (2013), state.gov/documents/organisation/220359.pdf (accessed 23 March 2023)

Van Biezen I, "Constitutionalising Party Democracy: The Constitutive Codification of Political Parties in Post-war Europe", 42 (2012) *British Journal of Political Science*, pp 187–212

Yin RK, *Case Study Research Design and Methods*, 5th ed, Thousand Oaks, Sage (2014)

Zuber D, "Gregoire Kayibanda (1924–1976)", *Black Past*, 23 March 2022, https:www.blackpast.org/global-african-history/people-global-african-history/gregoire-kayibanda-1924-1976/ (accessed 23 October 2024)

Table of cases

African Court on Human and Peoples' Rights cases

Lohe Issa Konate v Burkina Faso, Application No. 004/2013, Judgement, 5 December 2014

Mtikila v United Republic of Tanzania, Application No. 011/2011, Judgement, 14 June 2013

Ingabire Victoire Umuhoza v The Republic of Rwanda, ruling on Jurisdiction, 5 September 2016

Ingabire Victoire Umuhoza v The Republic of Rwanda, App. No. 003/2014, Judgement, 24 November 2017

Table of legislation

National legislation: Rwanda

Constitution of the Republic of Rwanda 2003, amended in 2015 and 2023

Government of Rwanda, Organic Law No. 005/2018.Ol of 30/08/2018 Modifying the Organic Law No. 10/2013/Ol Of 11/07/2013 Governing Political Organisations and Politicians, Official Gazette No. 37, 10 September 2018

International covenants and resolutions

African Commission on Human and Peoples' Rights, African Charter on Human and Peoples' Rights, adopted 27 June 1981, entry into force 21 October 1986

African Commission on Human and Peoples' Rights, Resolution on the Right to Freedom of Association, ACHPR/Res. 5(XI)92, 9 March 1992

African Union, African Charter on Democracy, Elections and Governance

East African Community, The East African Community Protocol on Good Governance (Draft)

United Nations General Assembly, International Covenant on Civil and Political Rights, United Nations General Assembly

Comments, guidance and opinions by international bodies

UN Human Rights Committee, General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote), 12 July 1996, CCPR/C/21/Rev.1/Add.7

Venice Commission, *Guidelines on Political Party Regulation*, 2nd ed, 14 December 2020, CDL-AD(2020)032