

News Advisory



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Supreme Court to Decide: Does Obama “suggestion of immunity” trump federal jurisdiction over Kagame for *unofficial* extra-judicial killing and international crimes committed *before* the RPF-government of Rwanda existed?

January 30, 2012 - Washington, DC/Supreme Court – The widows of the assassinated presidents of Rwanda and Burundi have petitioned the Supreme Court in *Habyarimana v. Kagame* to reject Obama administration claims of unreviewable executive power to strip federal courts of jurisdiction for money damages for “extra-judicial” murders, other violations of international law committed by Paul Kagame, the current president of Rwanda.

Rwandan President Juvenal Habyarimana Burundi President Cyprien Ntaryamira died when their French-piloted plane was hit by missiles and crashed in the presidential compound in Kigali on April 6, 1994. The widows of the slain presidents filed civil suit for money damages against Rwanda’s current President Paul Kagame on May 1, 2010 for these intentional “extra-judicial killings,” that Kagame *intended* to trigger the mass violence, now known as the 1994 Rwanda genocide.

The Imperial Presidency the real issue

The Obama administration issued a “suggestion of immunity” from federal court jurisdiction for Kagame, even though the assassinations of the two presidents occurred before the present government of Rwanda existed; before Kagame was an official in any government, much less head-of-state. The 10th Circuit and 4th Circuit ruled differently on whether a “suggestion of head-of-state immunity,” must be obeyed by the Supreme Court and the other federal courts.

This is another facet of unreviewable executive discretion of the “Imperial Presidency” that includes targeted assassinations by predator drone and NDAA-authorized detention of U.S. citizens in military prisons by Presidential decree. Unlimited “suggestions of immunity” put the jurisdiction of the federal courts in the control of the executive branch.

Unofficial acts not entitled to immunity: Supreme Court 2010

Presidential immunity from federal jurisdiction by decree is contrary to *Samantar v. Yousuf*, the Court's 2010¹ ruling held head-of-state immunity "derivative of" the "sovereign immunity" of nations which Congress defined in FSIA [Foreign Sovereign Immunity Act- 1976] and limited to "official acts." The President cannot create, or ignore, federal jurisdiction properly established and interpreted by the other branches.

"Suggesting immunity" for Kagame aligns U.S. with known war criminals. Why?

Whether now-President Kagame *should* be protected by Obama administration-invoked immunity from federal jurisdiction is a separate policy question that was widely discussed during the congressional vetting process of Susan Rice' candidacy for Secretary of State in late 2012,² in light of:

- Rwanda's responsibility for the mass violence perpetrated by M23 in the Congo, reported by UN Experts in November 2012;³
- Rwanda's responsibility for the mass violence in Congo 1993-2003 including genocide and war crimes in UN Mapping Report October 1, 2010;⁴
- Rwanda's responsibility for resource rape of the Congo, reported by UNSC Experts 2001-08;⁵ and,
- Kagame's responsibility for the assassination of the two presidents, which was well-known within the ruling RPF party, according to the October 1, 2011 the confession of former Chief of Staff to President Kagame, Dr. Theogene Rudasingwa, MD;⁶

In *Habyarimana v. Kagame*, the Supreme Court will have the opportunity to determine whether Mr. Obama, or any Chief Executive, has the *power* to ignore federal jurisdiction established by Congress [FSIA and TVPA] as interpreted by the Supreme Court [*Samantar v. Yousuf*].

¹ Ironically, *Samantar v. Yousuf* was decided while counsel for Petitioners was being held in Respondent Kagame's 1933 Prison while facing a 25-year sentence for having represented the plaintiffs in this action. Petitioner's counsel was released on "humanitarian grounds" following an international campaign.

² *Helene Cooper, U.N. Ambassador, Questioned on U.S. Role in Congo Violence*, New York Times, Dec. 9, 2012

³ *Final Report of the U.N. Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo*, Nov. 15, 2012

⁴ *UNHCHR Mapping Report, Democratic Republic of the Congo (Crimes Committed in Congo) (1993-2003)* October 1, 2010

⁵ *Final Report(s) of the Group of UNSC Experts on the Illegal Exploitation of Resources and Other Forms of Wealth of Democratic Republic of the Congo* (2001, 2002, 2003, and 2008)

⁶ *October 1, 2011, Public Confession of Theogene Rudasingwa*; www.ihli.org , <http://www.ihli.org/uncategorized/former-kagame-chief-of-staff-paul-kagame-killed-habyarimana-and-ntaryamira>