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amnesty international

RWANDA and BURUNDI

The return home: rumours and realities

20 February 1996

SUMMARY

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The flight of over two million people from Rwanda and Burundi and their prolonged exile constitutes one of the world's largest refugee crises since the Second World War.

In July 1994, around two million Rwandese fled their country in the aftermath of a genocide which had claimed as many as one million lives. Most of these refugees were members of the majority Hutu ethnic group. They had fled their country following the victory by the Rwandese Patriotic Front over the army of the former government of Rwanda and the militia who had been responsible for massacres on an unprecedented scale of members of the minority Tutsi ethnic group as well as many Hutu.

Around 200,000 refugees from Burundi are also still living outside their country. A further 200,000 are internally displaced within Burundi. Tens of thousands of them were forced to leave their homes in later 1993 and 1994 to escape the widespread massacres which began in October 1993, following the assassination of President Melchior Ndadaye. More than 100,000 people are estimated to have died in Burundi since October 1993. Massacres of civilians by the army and by armed militia - both Tutsi and Hutu - are continuing to this day. Thousands more are being forced to flee their homes as a direct consequence.

The vast majority, of these Rwandese and Burundi refugees have still not returned to their homes. They are waiting in camps in Zaire, Tanzania and Burundi, afraid and uncertain of their future.

In the face of the daunting problem caused by the displacement of so many people, pressure has been mounting for a mass repatriation of the refugees. Increasingly, repatriation is put forward as the only possible "solution" to the crisis - despite the risks which they might face on their return. A program for voluntary repatriation has been set up but has met with little response from the refugees. Little attention has been paid to the search for long-term solutions which would enable them to return to a life free from human rights abuses.

The refugee crisis in the Great Lakes region has had many tragic consequences. This report concentrates on the human rights issues facing the refugees and provides an overview of the broader human rights situation in Rwanda and Burundi, as fear of human rights abuses is one of the factors which continues to deter most refugees from returning voluntarily.

In September 1995, Amnesty International delegates visited Rwanda, Burundi and eastern Zaire to investigate the situation in the refugee camps and the risks which refugees might face on their return. They interviewed a wide range of people including refugees, returnees, government authorities and representatives of UN agencies and non-governmental organizations. Because of the urgency created at that time by Zaire's threat to forcibly return all remaining refugees by 31 December 1995, Amnesty International's visit to the region focused primarily on the refugees in Zaire, and to a lesser extent on those in Tanzania and Burundi. This emphasis is reflected in the contents of this report.

The Amnesty International delegates concluded that for a large number of refugees, the three most significant obstacles to their return to Rwanda and Burundi are the distortion of information about the true situation in their country, the absence of justice in both Rwanda and Burundi, and widespread

human rights abuses, especially in Burundi.

This report aims to provide an objective account of the risks facing refugees on their return to Rwanda and Burundi and to consider the question of repatriation or return of the refugees in the context of security - or insecurity. It examines the role of the various actors in this crisis the governments of Rwanda and Burundi, the governments of the countries of asylum, the leaders of the refugees, and the various components of the international community. It also describes the impact of the prolonged presence of these refugees on the host countries - especially Zaire and Tanzania.

The final part of the report contains a set of recommendations for action which needs to be taken to create conditions in Rwanda and Burundi which would enable refugees to return voluntarily and safely. It stresses the imperative need to ensure that until those conditions are met the refugees will continue to be protected against return to a place where they are at risk of human rights violations. Amnesty International is calling on all these actors to fulfil their responsibilities in ensuring that the above needs are met; each of them has a vital role to play.

Respect for human rights is the key to any successful resolution of the refugee crisis in the Great Lakes region. Amnesty International is therefore urging all governments to view this refugee situation as a human rights issue and not purely a humanitarian or political matter and to demonstrate their support for human rights as a priority.

Most people from Rwanda and Burundi have one overwhelming desire: to be able to live in peace, in their own country, reunited with members of their family who may still be alive. Such a fundamental desire must be realizable. All those concerned inside and outside the region have a duty to ensure that it is realized.

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RWANDA and BURUNDI

The return home: rumours and realities

INTRODUCTION

In July 1994, around two million Rwandese fled their country in the aftermath of a genocide which had claimed as many as one million lives. Their plight caught the attention of the international media and their pictures were seen on television screens across the world. Humanitarian aid poured in. Governments who had turned a blind eye to signs of the impending genocide between 1990 and 1994 and had done nothing to prevent the massacres between April and July 1994 suddenly voiced concern at the situation in Rwanda and neighbouring countries.

Most of these refugees were members of the majority Hutu ethnic group. They had fled their country following the victory by the Rwandese Patriotic Front (RPF) over the army of the former government of Rwanda and the militia known as the *interahamwe*, who had been responsible for massacres on an unprecedented scale of members of the minority Tutsi ethnic group as well as many Hutu.

Around 200,000 refugees from Burundi are also still living outside their country. A further 200,000 are internally displaced within Burundi. Tens of thousands of them were forced to leave their homes in late 1993 and 1994 to escape the widespread massacres which began in October 1993, following the assassination of President Melchior Ndadaye. More than 100,000 people are estimated to have died in Burundi since October 1993. Massacres of civilians by the army and by armed militia - both Tutsi and Hutu - are continuing to this day. Thousands more are being forced to flee their homes as a direct consequence.

The flight of over two million people from Rwanda and Burundi and their prolonged exile constitutes one of the world's largest refugee crises since the Second World War. The crisis has had many tragic consequences. This report concentrates on the human rights issues facing the refugees and provides an overview of the broader human rights situation in Rwanda and Burundi, as fear of human rights abuses is one of the factors which continues to deter most refugees from returning voluntarily.

In the face of the daunting problem caused by the displacement of so many people, pressure has been

mounting for a mass repatriation of the refugees (particularly the Rwandese refugees) to their homes. Increasingly, repatriation is put forward as the only possible “solution” to the crisis - despite the risks which caused the refugees to flee and which they might face on their return. Little attention has been paid to the search for longer-term solutions. A program for voluntary repatriation has been set up but has met with very little response from the refugees, the vast majority of whom have still not returned. They are waiting in camps in Zaire, Tanzania and Burundi, afraid and uncertain of their future.

In September 1995, Amnesty International delegates visited Rwanda, Burundi and eastern Zaire to investigate the situation in the refugee camps and the risks which refugees might face on their return. They interviewed a wide range of people including refugees, returnees, government authorities and representatives of UN agencies and non-governmental organizations. Because of the urgency created at that time by Zaire's threat to forcibly return all remaining refugees by 31 December 1995, Amnesty International's visit to the region focused primarily on the refugees in Zaire, and to a lesser extent on those in Tanzania and Burundi. This emphasis is reflected in the contents of this report.

The Amnesty International delegates concluded that for a large number of refugees, the three most significant obstacles to their return to Rwanda and Burundi are the distortion of information about the true situation in their country; the absence of justice in both Rwanda and Burundi; and widespread human rights abuses, especially in Burundi.

This report aims to provide an objective account of the risks facing refugees on their return to Rwanda and Burundi and to consider the question of repatriation or return of the refugees in the context of security - or insecurity. It examines the role of the various actors in this crisis: the governments of Rwanda and Burundi, the governments of the countries of asylum, the leaders of the refugees, and the various components of the international community. The report aims to focus attention on action which needs to be taken to create conditions in Rwanda and Burundi which would enable refugees to return voluntarily and safely and the imperative need to ensure that until those conditions are met, the refugees will continue to be protected against return to a place where they are at risk of human rights violations. Amnesty International is calling on all these actors to fulfil their responsibilities in ensuring that the above needs are met; each of them has a vital role to play.

While this report focuses primarily on the refugee situation, it also formulates recommendations on the broader human rights problems in Rwanda and Burundi, in recognition of the fact that issues of justice and prevention of further mass human rights violations are central to the resolution of the refugee crisis in

the Great Lakes region.

Most people from Rwanda and Burundi have one overwhelming desire: to be able to live in peace, in their own country, reunited with members of their family who may still be alive. Such a fundamental desire must be realizable. All those concerned inside and outside the region have a duty to ensure that it is realized.

1. THE REFUGEE CRISIS IN THE GREAT LAKES REGION: BACKGROUND INFORMATION

1.1 Numbers and locations ¹

There are still more than 1.7 million Rwandese refugees who have been living in refugee camps since July 1994. Approximately one million of these are in Zaire, 600,000 in Tanzania and 150,000 in Burundi. The vast majority are Hutu who fled Rwanda at the time of the victory of the RPF, in the aftermath of the genocide orchestrated by the former government of Rwanda which claimed as many as one million lives between April and July 1994. The total population of Rwanda before April 1994 was estimated at around seven million.

The number of refugees from Burundi is approximately 200,000. Many fled their country in late 1993 and early 1994 to escape the massacres sparked off by the assassination of President Melchior Ndadaye in October 1993. Many others fled in 1995 to escape ongoing massacres. Others fled decades ago to escape earlier waves of killings. In addition, inside Burundi, there are several hundred thousand internally displaced persons - those who have been forced to leave their homes but have not sought or obtained refuge in another country. The total population of Burundi is estimated at around 5.7 million.

The refugees in eastern Zaire are mainly grouped in camps around Goma, to the north of Lake Kivu (where there are approximately 700,000 refugees), and Bukavu, to the south of Lake Kivu (where there are approximately 300,000 refugees). These camps are close to the border with Rwanda and Burundi, marked by the lake. In addition, there are some 160,000 refugees in camps near Uvira, further south. The refugee camps in Zaire vary in size: some of the largest, such as Katale and Kibumba, still held around 200,000 refugees at the end of 1995.

In addition, large numbers of mainly Tutsi refugees who fled Rwanda in 1959-1960 have been living in Zaire since that time, mostly around the area of Masisi to the north of Lake Kivu. Many of these are now choosing to return to Rwanda.

¹ Figures quoted in connection with the refugee population in the Great Lakes region can only be approximate, given the sheer number of people involved, the high rate of childbirth in the camps, the movements backwards and forwards between countries, and the fact that not all refugees are registered. Not all returns are registered either, as some refugees opt for "spontaneous return" (not via formal procedures). Most of the figures used in this report are based on those provided by the United Nations High Commissioner for Refugees (UNHCR).

In Tanzania, there are an estimated 600,000 Rwandese refugees and around 80,000 Burundi refugees; in addition there are around 200,000 Burundi refugees who have been in Tanzania for several decades. The refugees are grouped in camps around three areas: Ngara, Karagwe and Kigoma. Ngara, which holds around 420,000 refugees, is described by some as the second largest town in Tanzania.

1.2 Social and economic conditions

Craft shop selling artwork made by Rwandese refugees, Kashusha camp, Zaire.

The United Nations High Commissioner for Refugees (UNHCR) and non-governmental organizations have been providing humanitarian assistance to the refugees since the camps were set up in 1994. In recent months, food rations have been cut (from 2,000 to 1,500 calories a day) and some longer-term humanitarian programs have been curtailed, including support for secondary-level schooling. According to some UNHCR officials, this was partly due to the realization that some refugees were reluctant to leave the camps as they believed they were leading a more comfortable life there than they could in Rwanda or Burundi.

There is an active social life in some of the camps. Some, such as Ngara in Tanzania and Mugunga and Kashusha in Zaire, have many facilities. Refugees have taken the initiative to set up makeshift shops, health centres, restaurants, video viewings, barbers' shops, craft shops, churches, schools and post offices. Some refugees have settled in the towns, particularly mixed Hutu-Tutsi couples who were afraid of victimization in the refugee camps.

Some refugees in Zaire attempt to earn a living in the towns of Goma and Bukavu to supplement the rations they receive in the camps. These initiatives are not always welcomed by the local population and since July 1995, measures have been imposed to limit commercial activities by refugees. For example, small businesses are now subject to registration and tax. Curfews, imposed on several occasions for security reasons, have also had a negative effect on refugees seeking work, particularly in Goma.

In 1994 and early 1995, there were frequent reports of theft, looting and intimidation carried out by Zaïrian soldiers and also by Rwandese refugees within the camps. The presence of the *Contingent zairois de sécurité dans les camps* (CZSC), Zaïrian Contingent for Security in the Camps - Zaïrian soldiers, picked by President Mobutu, but working under UNHCR and responsible for security in the camps - is said to have reduced the level of insecurity of that nature.

Many refugees have been separated from their families as a consequence of sudden flight and/or forced

expulsion. Many do not know where their relatives are, or if they are still alive. Children have probably borne the greatest burden. The United Nations International Children's Emergency Fund (UNICEF) and UNHCR estimated that in July 1995, there were 117,100 Rwandese children separated from their families, living in Rwanda, Zaire or Burundi.

1.3 Returns of 1993 and 1994 refugees - and further flight in 1995 and 1996

So far, the rate of voluntary return of the 1993/94 refugees - known among those working with refugees as the "new caseload" - to Rwanda and Burundi has been low. During 1995, approximately 230,000 out of 1.7 million refugees had voluntarily returned to Rwanda, but only 78,000 of these were "new caseload" refugees. The monthly figure for voluntary returns declined from around 27,000 in September 1995 to around 13,000 in October and only 6,700 in November. The figure rose again to around 13,500 in December. It is noticeable that a high proportion of those returning to Rwanda are women and elderly people.

Still fewer have returned to Burundi. The high level of insecurity in Burundi continues to create many obstacles to the return of both refugees and internally displaced persons to their homes within Burundi, as well as to cause further flight from Burundi. In one month alone, between mid-December 1995 and mid-January 1996, around 15,000 more Burundi refugees arrived in Uvira, in Zaire, fleeing the fighting in Burundi's northern provinces of Cibitoke and Bubanza.

It is significant that many of the Rwandese refugees opting to return to Rwanda are refugees from camps in northern Burundi. The widespread violence there is driving Rwandese refugees back to their own country, even though they may not have chosen to return otherwise. For example, many refugees from Rwanda who fled to Burundi in April 1995 after the massacre at Kibeho (in which up to several thousand people were killed when soldiers of the Rwandese Patriotic Army (RPA) opened fire on a crowd of internally displaced persons) are now returning to Rwanda - not because they necessarily feel safe there but because it is seen as the lesser threat.

However, not all Rwandese refugees who want to leave Burundi are choosing to return to their own country. On 17 January 1996, around 15,000 Rwandese refugees fled from Mugano camp, in Muyinga province, in northeastern Burundi, and sought asylum in Tanzania. Their flight reportedly followed fighting around Mugano camp, apparently between Burundi security forces and armed groups. Several of the refugees who crossed into Tanzania reportedly had gunshot wounds. On 20 and 21 January, a

second group of around 16,000 Rwandese refugees fled towards the Tanzanian border from Ntamba, also in Muyinga province.

1.4 Return and resettlement of 1959 refugees

In addition to refugees who left Rwanda in 1994, refugees who fled Rwanda in 1959 or 1960 and have been living in eastern Zaire for around 35 years are now returning to Rwanda. Around 146,400 are estimated to have returned during 1995. As mentioned above, these refugees are mainly Tutsi and tend not to feel threatened by the present government of Rwanda.

Many of these refugees cannot return to their areas of origin in Rwanda, either because their houses have been destroyed and their land occupied or because the government decides to locate them elsewhere. Many have to spend several weeks in transit camps before eventually being directed towards resettlement areas, mainly Kibungo in the east or Byumba in the north. In some cases, they occupy empty houses belonging to Hutu refugees who are still in exile. This is likely to lead to further problems if and when the “new caseload” of refugees who are the owners of these houses return. Resettlement of the “old caseload” often takes place in remote areas where the soil is not fertile and there are sometimes shortages of water. Many of the returnees have been used to an urban way of life and have difficulty adjusting to a rural existence. Some of the resettlement areas are very close to the Tanzanian border, in areas where armed incursions by Rwandese Hutu armed groups from Tanzania have created a climate of insecurity (see below).

Returning home after the long exile - hundreds of Rwandese refugees who have been living in Zaire for around 35 years arrive at Nkamira transit camp, in Rwanda. The younger ones are seeing their country for the first time.

The Rwandese government has made some efforts to provide extra security in these areas and should step up these efforts to protect the returnees from becoming easy targets for human rights abuses by Rwandese militia operating from Tanzania.

1.5 The infrastructure for return: the transit camps

Refugees who want to return are asked to register at UNHCR points of contact set up within the camps.

Despite a mass information program run by UNHCR (see below), Amnesty International found that some refugees were not aware of the existence of UNHCR registration points. After registration, the refugees wait for transport to be organized by UNHCR and then return to Rwanda or Burundi, accompanied by members of UNHCR. In the case of Rwanda, once they have crossed the border, they are sometimes also accompanied by members of the RPA.

On arrival, Rwandese refugees are taken to one of the transit camps especially set up in Rwanda. Refugees from Goma are taken to the transit camp at Nkamira near Gisenyi and those from Bukavu are taken to Nyagatare camp near Cyangugu. Refugees coming from Tanzania are taken to the transit camps at Birenga or Nyakarambi. Transit camps also exist further inside Rwanda, away from the borders, for example at Ndera, on the outskirts of Kigali. Refugees returning to Burundi from Zaire are taken to the transit camp at Gatumba, west of the capital Bujumbura.

The problem of separated families is particularly striking in the transit camps, where returnees include parents who do not know where their children are, and unaccompanied children, some as young as 10, who have returned alone. For example, one seventeen-year-old boy ² decided to leave INERA camp in Zaire as he was lonely there and had no family. He left secretly, pretending he was going to the market. On arrival in Rwanda, he was unsure where he would go or what he would do.

In September 1995, conditions in the transit camps inside Rwanda were reasonably good. They appeared fairly well organized, with basic facilities for distribution of food and sanitary and medical facilities. Some have a capacity of several thousand but in the event of a mass return, it is clear that that capacity would be exceeded, that facilities would prove insufficient and that the security of returnees would be difficult to guarantee.

In Rwanda, security and procedures on arrival at the camps vary from camp to camp. Nkamira is guarded by military security. During the forcible returns from Zaire in August 1995 and in their immediate aftermath, refugees arriving at Nkamira were subjected to interrogation and searches. Those who admitted being members of the former government army were separated and taken to a military detention centre nearby known as ETAG (a former school, the *Ecole Technique Appliquée Générale* ³). By the end of September, 226 people had been detained at ETAG. Most were former members of the military but at

² The names of returnees who spoke to Amnesty International have been omitted from this report for security purposes, in cases where there is a possible risk of reprisals.

³ Several detainees held at this centre earlier in 1995 reported being tortured and ill-treated.

least 12 were civilians, some of whom appeared to have been picked up arbitrarily but were not immediately released. They included some Zairians and a doctor from Burundi, Nicolas Bigirimana; no reason was given for his arrest but he was held for several weeks.

Amnesty International did not receive reports of torture and “disappearances” of returnees inside the transit camp at Nkamira.

Other transit camps appeared more relaxed and there was no visible presence of members of the security forces. In Ndera camp, outside the capital Kigali, Amnesty International delegates were told that soldiers were not allowed into the camp so as not to frighten the returnees. In Nyagatare camp, in Cyangugu in the southwest, the RPA took over responsibility for security when the United Nations Mission for Rwanda (UNAMIR) withdrew from this role. Some RPA soldiers posted in the camp were reportedly responsible for incidents of intimidation and theft of equipment belonging to refugees. However, the soldiers were removed from these posts and replaced by others after the incidents were reported.

1.6 Conclusion

Some 18 months after the flight of almost two million Rwandese from their homes and almost two years after the flight of several hundred thousand Burundi nationals, only a small fraction have chosen to return home. This is in spite of huge efforts by UNHCR to persuade them to return, indications from the host countries that they are no longer welcome and numerous statements by the Rwandese Government encouraging refugees to return. Yet the reluctance to return persists. It is clear that one of the main reasons is the refugees' fear of the risks they face in their own country. In the sections below, Amnesty International examines the risk of human rights violation faced by returnees in Rwanda and Burundi. But first, it is necessary to look at the principles of international law which govern the return of refugees and which all the countries in the Great Lakes region are bound to observe.

2. THE PRINCIPLES

2.1 International standards

It is a well-established principle of customary international law that no person should be returned to a country where he or she is at risk of serious human rights violations. This principle, known as the

principle of “*non-refoulement*”, is the underlying basis of the entire system of international refugee law. It is set out in Article 33 of the 1951 Convention relating to the Status of Refugees and is reaffirmed in Article II (3) of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, which states:

“No person shall be subjected... to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or to remain in a territory where his life, physical integrity or liberty would be threatened.”

Consequently, the forcible return of persons to a country where they are at risk of serious human rights abuses constitutes a breach of international law, as does rejection of such persons at the frontier. The principles of both the 1951 and the 1969 Conventions apply to all states involved in the refugee crisis in the Great Lakes region - Zaire, Tanzania, Rwanda, Burundi, Kenya and Uganda - as they are all signatories of the Conventions. Thus, states hosting refugees from Rwanda and Burundi are required to observe the principle of *non-refoulement* and refrain from forcibly returning refugees to these countries if it appears that they would be at risk of serious human rights abuses on their return.

Of course, it is possible that, in some situations, refugees may choose to return voluntarily to their country of origin even though some degree of risk exists. This is a matter to be decided by the individual refugee, free from pressure of any kind and on the basis of objective information about the situation in the country of origin. Principles of international law dealing with the issue of voluntary return or voluntary repatriation emphasize the entirely voluntary nature of the decision to return. Article V (1) of the 1969 Convention states:

“The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will”.

In addition, the Executive Committee of UNHCR has adopted a number of conclusions regarding voluntary repatriation. While these conclusions are not legally binding in the same strict sense as treaty law, they represent the views of the international community as to the international standards which should be observed. The most important of these is Conclusion 40(b) which provides that:

"The repatriation of refugees should only take place at their freely expressed wish; the voluntary and individual character of repatriation of refugees and the need for it to be carried out under conditions of

absolute safety, preferably to the place of residence of the refugee in his country of origin, should always be respected".

It is clear that, even in the event of a large repatriation program, the decision of the refugee to return to his/her home must always be a voluntary one. According to UNHCR Protection Guidelines, this involves "the ability to exercise one's free and unconstrained will in making a meaningful choice [to return]". The Guidelines also state that "this choice must be made without undue pressure, whether physical, psychological or material" and registration of the voluntary decision to return should take place "without any form of scrutiny or pressure by the parties" or "without any threat of phasing down basic refugee assistance programmes".

Thus, international standards for the repatriation of refugees require that:

- a) no person is forcibly returned to a country where he or she is at risk of serious human rights violations
- b) no such person is rejected at the frontier so that they are forced to remain in a country where they are at risk
- c) any repatriation of refugees to their country of origin should take place on an entirely voluntary basis
- d) the decision to return is taken by each individual refugee, who has the right to make an informed decision.

In addition to the above obligations, the tripartite agreements signed between Zaire, Rwanda and UNHCR, Tanzania, Rwanda and UNHCR, and Burundi, Rwanda and UNHCR reaffirmed the commitment of the parties concerned to comply with the principles of a return which would be voluntary and carried out in safety and dignity.

2.2 Amnesty International's position

Amnesty International's work for refugees derives from its work for the protection of human rights. Amnesty International campaigns against specific violations of human rights, in particular, the detention of prisoners of conscience, the use of torture or other cruel, inhuman or degrading treatment, extrajudicial executions, "disappearances" and the use of the death penalty. It also works to ensure that all political

prisoners receive a fair trial within a reasonable time. The organization also opposes abuses by armed opposition groups, including hostage-taking, torture, killings of prisoners and other deliberate and arbitrary killings.

Arising from these concerns, Amnesty International opposes the forcible return of any person to a country where he or she risks any of these serious human rights abuses. In addition, it opposes the sending of people to any third country where they are not provided with effective and durable protection against such return.

Amnesty International bases its work in this area on principles of international law concerning refugees, particularly the principle of non-*refoulement*.

With regard to the specific question of repatriation of refugees, Amnesty International recognizes that everyone has the right to return to his or her country, as set out in Article 13 of the Universal Declaration on Human Rights. The organization therefore calls upon governments of countries where people have been forced to flee their homes to take all necessary steps to create conditions (including full respect for the human rights of all citizens) so that refugees are able to return home voluntarily and safely. Until those conditions are established, refugees will continue to be in need of protection from countries of asylum. In any given situation, Amnesty International does not seek to promote or advocate the modalities of any particular "solution". Amnesty International concerns itself solely with the requirement that any repatriation or return of refugees must comply with the international standards mentioned above and, in particular, that no person is returned to a country where he/she is at risk of serious human rights abuses and that every individual refugee is allowed to exercise his/her right to make a free and informed decision on return.

3. THE RISKS OF RETURN TO RWANDA

3.1 Overview of the human rights situation

Amnesty International delegates who were in Rwanda in September and October 1995 described the atmosphere there as a contradictory blend of hope, goodwill, suspicion and fear. The country is poised on the edge - in a fragile balance between peace and war, security and insecurity. There is much talk of respect for human rights but killings, "disappearances", torture and arbitrary detentions without trial continue. The memories of the genocide are omnipresent. It is the genocide and other massacres that have

largely created the climate of fear which continues to pervade Rwanda - whether it is fear of victimization and arbitrary actions by the RPA, fear of reprisals by the local population or fear of the return of the former army and militia who continue to terrorize not only the refugees in Zaire and Tanzania but also the civilian population in Rwanda.

Amnesty International continues to be concerned about a range of human rights violations in Rwanda. Little could compare with the scale of atrocities committed by the former Rwandese armed forces and the *interahamwe* militia between April and July 1994 when murder, rape and torture had become the norm. However, it should not be forgotten that the RPF itself was responsible for widespread killings of unarmed and defenceless civilians.⁴ Even though these were not on the same scale, they have nevertheless left deep scars and an atmosphere of suspicion across the country. One year on, large-scale massacres of civilians are no longer a daily occurrence but critics of the government are systematically silenced and hundreds of people are dying, slowly, in overcrowded prisons, waiting for justice. Some of these have probably participated in the genocide and massacres of 1994 and should be promptly charged and tried, but many others have been arbitrarily arrested.

Within the government, deep divisions have emerged over human rights issues. These divisions came to the surface publicly at the end of August 1995 when Prime Minister Faustin Twagiramungu and four key cabinet ministers, including the Minister of Justice and the Minister of the Interior, resigned or were dismissed.⁵ One of the principal areas of disagreement which led to these resignations was government policy on the return of refugees; another was the climate of insecurity across Rwanda caused by human rights violations by the RPA. Within official circles, there is still a sharp tension between those who appear to be genuinely seeking to restore respect for human rights in Rwanda and those who are prepared to overlook it for their own political ends.

In many instances, the desire for political control has been translated into gross disregard for the rights to physical integrity and freedom of expression. The level of human rights violations varies from area to area, depending on the local civilian and military authorities. But, overall, a clear pattern has emerged of victimization of people perceived as critics or opponents of the government. Some examples are given below.

⁴ See Amnesty International report "Rwanda: Reports of killings and abductions by the Rwandese Patriotic Army, April-August 1994", 20 October 1994 (AI Index AFR 47/16/94).

⁵ See Amnesty International news service "Rwanda: Human rights may be the main casualty of tensions in the Rwandese Government", 30 August 1995 (AI Index AFR 47/18/95).

It is not always possible to conclude that these violations have been ordered at a high level of the command structure; in some instances, the government has strongly condemned reports of human rights violations and has announced inquiries. However, these have hardly ever been followed up and little action has been taken to prevent a recurrence of human rights violations or to ensure that the RPA intervenes to protect individuals from violence. Given the tight discipline which characterizes the RPA, the absence of official action to put an end to such violations suggests at least a lack of political will to do so.

3.1.1 Unlawful detentions and deaths in custody as a substitute for justice

The crisis of the prison situation in Rwanda reached unprecedented proportions in the second half of 1995. Arrests increased sharply from September. In December 1995, more than 60,000 people were estimated to be held without charge or trial on accusations of having participated in the genocide. Many have been arbitrarily arrested. They are held in grossly overcrowded prisons where the conditions often amount to cruel, inhuman or degrading treatment. In the most extreme cases, such as the prison of Gitarama which Amnesty International delegates visited in June 1995,⁶ the conditions can be described as torture. According to the International Committee of the Red Cross, more than 2,300 detainees have died since July 1994 as a consequence of the overcrowding and absence of sanitary and medical facilities in prisons and detention centres across Rwanda.

The government has recognized that the situation in the prisons in Rwanda must be improved and several government officials have acknowledged that a significant proportion of those in detention may be innocent. There have been various government initiatives to alleviate the situation but these have come very late and, to date, have had limited impact. For example, in November 1995, the prison extension at Nsinda, in the southeast, was finally opened and around 4,500 prisoners were transferred there but just a few weeks later, the extension itself was almost full. In December, several other sites identified by the government to relieve overcrowding, such as the site known as ONATRACOM in the prefecture of Kigali ville, remained unused. The *commissions de triage* (screening committees) set up to recommend releases have also failed to have any impact.

Amnesty International has received hundreds of testimonies and details of individuals who have been

⁶ See Amnesty International Urgent Action "Rwanda: fear of further deaths in custody", 9 June 1995 (AI Index AFR 47/14/95).

arbitrarily arrested and who are still imprisoned without charge or trial. The list is too long to feature in this report. Individual cases examples would appear inadequate in illustrating the full extent and gravity of the situation. The overcrowding in the *cachots* (small, police or local administration cells where detainees are held immediately after their arrest) is also increasing because detainees can no longer be transferred to the official prisons for lack of space.

In June 1995, conditions in Gitarama Prison were reported to be killing around four prisoners a day. The prison held more than 10 times the number of inmates it was built for. Prisoners could not lie down due to overcrowding and there was a total absence of hygiene and basic sanitary facilities. Some prisoners were eventually transferred to an extension in November 1995.

Unlike the official prisons, the *cachots* do not come under the responsibility of the Ministry of Justice. Amnesty International continues to receive reports of torture and ill-treatment of prisoners by security officials, including beatings and rape, indicating that such practices are still common both in the *cachots* and in the *brigades* of the gendarmerie.

Arrests are almost always carried out by RPA soldiers, who are responsible to their commanders rather than to the judiciary. This points again to the pressing need to rebuild the appropriate judicial institutions and speed up the training of the police force as it is they and not the national army who should be responsible for arrests.

The pattern of arbitrary arrest on the basis of one person's denunciation or unsubstantiated evidence has persisted. This aspect is of particular concern for returnees, who know they will be questioned and viewed with suspicion on their return. The knowledge that innocent returnees can be victims of unlawful detentions frightens refugees who might be intending to return. Procedures for dealing with arbitrary denunciations vary. For example, in Ngenda, returnees who are denounced are immediately detained without any follow-up. In other districts such as Birenga and Kibayi, however, returnees who are denounced will only be detained after a preliminary investigation has taken place. In other cases, where a person is denounced, the accuser has three days in which to provide evidence. If they fail to do so within this period, the suspect is released.

Returnees who express the wish to return to a district other than their district of origin are immediately viewed with suspicion and are more likely to be arrested. Alleged members of the former government army are taken to military retraining centres such as Gako in the south. Some of these have subsequently been arrested and imprisoned, including members of the former army who have volunteered to be

integrated into the RPA.

Given the current atmosphere of fear in Rwanda and an attitude of widespread suspicion towards refugees, there is a grave risk that a mass return of refugees would lead to a further dramatic increase in arbitrary arrests and detentions without charge or trial, in intolerable conditions.

3.1.2 Political killings and “disappearances”

Amnesty International delegates visited Rwanda in the immediate aftermath of the massacre at Kanama, in Gisenyi in the northwest, in which at least 110 unarmed civilians were killed by the RPA in the early hours of the morning on 12 September. Amnesty International gathered detailed testimonies from eye witnesses and relatives of some of the victims. They confirmed that the victims were shot at close range by RPA soldiers, in many cases after being forced out of their houses. Soldiers killed entire families, including young children, babies and elderly men and women. For example, Maria Nungurubwenga saw her 65-year-old husband Simeon Sekabanza and his 54-year-old brother Michael Urimubenshi killed before her eyes. Domitie Bahengeri saw her son killed a few metres from her house and had to bury him herself. In another peasant family, all four sons were killed.

Amnesty International considers the massacre at Kanama to be a clear case of extrajudicial execution of unarmed civilians who were posing no threat to the army. Even though there is no confirmation that the killings were ordered at a high level of the army command or by government officials, it is clear that this was a well-organized operation, with large numbers of soldiers responsible for killings in several different sites.

The massacre was portrayed by the authorities as an isolated incident. It was described as an act of reprisal by RPA soldiers following the death of an RPA lieutenant, Claude Uraza, who was allegedly ambushed and killed by armed militia on 11 September. However, the men, women and children who were killed at Kanama the following day were unarmed and there is no evidence that they were connected with the alleged ambush. The massacre at Kanama - like the massacre of up to several thousand people at the camp for the internally displaced at Kibeho on 22 April 1995 - showed a complete disregard of human rights by members of the RPA.

A further massacre was uncovered at the end of November 1995, in Nyungwe forest, in the prefecture of Gikongoro, in the south of Rwanda. At least 20 bodies were found -including those of several women,

children and infants and an elderly man - near a makeshift settlement in the forest. The victims, thought to be internally displaced temporarily living in the forest, were reportedly killed by RPA soldiers who were patrolling the area. The soldiers confirmed that some civilians had died but described the incident as a clash between armed elements in the camp and the RPA patrol. A investigation by a military prosecutor was reported to be underway in January 1996.

Aside from these massacres, Amnesty International has documented a series of other killings and "disappearances", which are taking place with alarming frequency, away from the glare of international attention. These hidden abuses are more typical of the current human rights situation in Rwanda. They are characterized in almost every case by active or passive involvement of local soldiers and by an absence of official action to satisfactorily investigate the incidents.

The victims come from many different sectors of society. They include prominent public figures, educated people but also elderly peasants and young children. The victims are almost always Hutu, often individuals known to have expressed criticism of the government or the army. A few examples are given below.

Bernard Nikuze, a judge and acting President of the *Tribunal de première instance* (high court) at Butare, was assassinated on 28 August 1995. He was known as an outspoken critic of human rights violations and a keen advocate of justice. The motives for his assassination are unclear. Two soldiers and two civilians have reportedly been arrested in connection with his death but the government has not reported the findings of any inquiry.

On 27 July 1995, Placide Koloni, his wife Immaculée Nyirambibi, his daughters Marie-Claire Umutoniwase, 15, and Carine Uwamahoro, 9, and his servant Séraphine Murekatete, were killed at their home by unidentified attackers, who then set their house on fire with the five bodies inside. Soldiers of the RPA were reportedly seen very near the house. Placide Koloni was the *sous-préfet* (sub-administrator) of Ruhango in the prefecture of Gitarama. On 14 February 1995, he had been arbitrarily arrested and accused of taking part in the 1994 massacres. He was imprisoned in Gitarama prison, where the conditions are notoriously harsh. On 24 July, he was released on the recommendation of a *commission de triage* (screening committee - see below) which found that there was insufficient evidence against him. He was killed three days later.

On 6 September 1995, two peasants, Fidèle Munyanguju and Gervais Ndindabahizi, were beaten to death by soldiers in the district of Masango, prefecture of Gitarama. The soldiers reportedly led them

away from their homes, beating them continually until they could no longer walk, then left them in a wood. They later died.

In some cases, killings have occurred following property disputes where the legal owner of a house may have been trying to repossess property occupied by military officials or by their relatives or friends. For example, on the evening of 28 August 1995, Callixte Kamanzi, head of finances at the national tea company known as OCIR-Thé, was led away from his home and interrogated by two soldiers. He never returned. Two days later, his body was found, shot in the head and the heart. To date, there is no confirmation of the reason for his assassination. One theory is that it may have been the result of a dispute with an RPA captain who had occupied Kamanzi's house illegally and had refused to leave at the end of an agreed period. Kamanzi had taken various steps to recover his house shortly before he was killed. A government inquiry is reported to be underway.

Manassé Mugabo, a journalist working for the Kinyarwanda service of Radio UNAMIR "disappeared" without trace in August 1995. Neither his family nor his employers have received any news of him since he left for his vacation on 15 August. He is feared dead. It is thought that he may have been targeted because of his work as a journalist broadcasting news about the situation in Rwanda.

Several other prominent critics of the government have been repeatedly threatened by military officials; some, such as Father André Sibomana, acting bishop of the diocese of Kabgayi and President of the human rights group *Association rwandaise pour la défense des droits de la personne et des libertés publiques* (ADL), Rwandese Association for the Defence of Human Rights and Public Liberties, have only narrowly escaped assassination attempts. Human rights activists have been especially targeted for intimidation, but nevertheless continue to monitor the human rights situation around the country and to issue public reports, with limited resources and in a permanent state of fear.⁷

3.1.3 The absence of justice

Underlying all the above concerns is the continuing paralysis of the justice system. In the aftermath of the genocide, the Rwandese government found itself in a difficult situation, faced with the need to try large numbers of people in a country where the institutions of the judiciary had been completely

⁷ See Amnesty International Urgent Action "Rwanda: fear for safety", 30 November 1995 (AI Index AFR 47/23/95) and update of 11 December 1995 (AI Index AFR 47/25/95).

destroyed. Substantial international aid was and still is needed to rebuild these structures. However, in July 1995, the Transitional National Assembly rejected draft legislation which would have enabled foreign judicial experts to work in Rwanda - a move which would have significantly accelerated judicial proceedings. The government has not explicitly ruled out the presence of foreign judicial experts but no concrete steps have been taken since the rejection by the Assembly in July. Marthe Mukamurenzi, the new Minister of Justice appointed in September 1995, is reported to have expressed reservations regarding the presence of foreign judicial experts and to have delayed consideration of the proposal until further progress has been made with regard to the national judiciary.

Meanwhile, prisoners continue to languish in unacceptable conditions, with no immediate prospect of release or formal charge and trial. The *commissions de triage* (screening committees) set up by the government to recommend the release of detainees against whom there is insufficient evidence to bring them to trial have proved to be an almost complete failure. They have released only a few scores of prisoners, several of whom have been re-arrested.

In a long-awaited move, on 12 October 1995, six Supreme Court judges were finally appointed. The non-operation of the Supreme Court had been one of the main obstacles to legal processes. However, there are still many gaps in the lower levels of the judiciary and trials cannot be expected to begin for some time. The Belgian government and the non-governmental organization Citizens' Network have launched a program of intensive training of 200 magistrates, who should be able to begin work in early 1996. This initiative will be followed by a further training program by Belgium for 100 Rwandese magistrates. An adequately trained and properly constituted judiciary will contribute to observance by the Rwandese courts of international standards pertaining to fair trials.

Another positive development has been the training seminars on arrest and detention procedures for the *inspecteurs de police judiciaire* (IPJ), judicial police inspectors, undertaken jointly by UNHCR, the UN Human Rights Field Operation in Rwanda (UNHRFOR) and officials of the Ministry of Justice. Citizens' Network has played an instrumental role in initiating such training programmes and in preparing a manual for the IPJ. Adherence to lawful arrest and detention procedures will be all the more important in the event of a mass return of refugees, not only to ensure that security officials respect the correct practices but to limit reprisals by individuals.

Amnesty International remains concerned about the possible application of the death penalty in Rwanda and fears that when their trials begin, many of those charged with participation in the genocide may face a death sentence. Under the Rwandese constitution, those found guilty of crimes against humanity may be

sentenced to death by firing squad. Senior government officials, including the President and the Vice-President, have stated their support for the use of the death penalty on several occasions. Three RPA officers have already been sentenced to death - two on 11 May 1995 and one on 28 December 1995 - by a *conseil de guerre* (court martial), for crimes not related to the genocide. Amnesty International is continuing to urge the Rwandese Government to refrain from using the death penalty, a state-sanctioned violation of the right to life, the use of which will only aggravate the cycle of violence and revenge in the aftermath of the genocide.

3.1.4 Deliberate and arbitrary killings of civilians by armed opposition groups

Armed cross-border incursions by armed Hutu groups based in Zaire and Tanzania have continued throughout 1995 and have involved grave human rights abuses, including deliberate and arbitrary killings. Occasional lulls are probably attributable to a reinforced RPA presence along the borders. However, incursions from Zaire, Tanzania and Burundi are reported to have resumed since September 1995. These attacks have become increasingly violent and have claimed many civilian lives. Their military purpose has become more apparent, in terms of their structure and organization.

Some incursions appear specifically aimed at eliminating witnesses who could testify to participation of known individuals in the massacres of 1994; others at killing or evicting people with a view to occupying their property. In several cases, the assailants have departed with several additional men from Rwanda in what might be described as press-ganging to boost the numbers of the militia in the camps in Zaire and Tanzania. Whatever the motive, the effect has been to terrorize the local population.

The civilians killed or injured during such incursions have been unarmed and defenceless. In late August and September 1995, there was a wave of armed incursions from Tanzania into southeastern Rwanda. Members of the *interahamwe* militia reportedly use the Akagera National Park, near the border with Tanzania, as a springboard for their attacks.

At least four separate incidents were reported in the prefecture of Kibungo, near the border. For example, in the night of 3 September 1995, in Rukira district in the prefecture of Kibungo, the house of a 30-year-old cattle keeper was attacked. The cattle keeper's wife and his six-year-old daughter were killed; the girl had her head split open with a machete. A 16-year-old shepherd was very seriously injured with machetes. The cattle keeper survived alone with a very young daughter. The attackers were recognized by a neighbour as former inhabitants of that village. They escaped with three extra men from

the village.

In another incident, in the night of 26-27 September, in *secteur* Kabare II, district of Kigarama, one man was killed and another injured when 10 people attacked a house in a remote area, demanding money for the former government army of Rwanda. RPA soldiers surrounded them as they tried to escape and shot dead three of the assailants. The identities of the assailants were apparently known to the inhabitants of the village. They were described as having come from the refugee camp of Benaco, in Tanzania.

In response to such attacks, the RPA has stepped up its presence in strategic areas, particularly along the borders with Zaire and Tanzania. Tensions between the RPA and those described as *interahamwe* continue to escalate. Rumours of the presence of *interahamwe* in particular areas has caused the RPA to search villages; discoveries of arms are often reported, as are armed clashes between *interahamwe* and RPA.

The incursions have instilled fear in the inhabitants of border areas and are having a direct effect on the security of returnees. For example, in the district of Kigembe in the south of Rwanda, near the border with Burundi, people do not sleep in their own houses for fear of attacks during infiltrations. Infiltrations from Burundi are reported approximately once a month in this area and sometimes involve attacks on civilians. The local population cultivate their land during the day but many spend the nights in a nearby reception centre (*centre d'accueil*). Some have said they would only be prepared to return to their homes permanently once all their neighbours have returned from Burundi.

3.2 The risks for returnees

When Amnesty International delegates visited Rwanda in September and October 1995, it appeared that the majority of refugees who had returned to Rwanda in August and September 1995 had not been specifically singled out for human rights abuses by the authorities, although there were exceptions. Abuses occurred most often in cases of personal revenge.

Amnesty International delegates interviewed a number of former refugees who had recently returned to Rwanda from Zaire, Tanzania or Burundi. Some had returned voluntarily; others had been forcibly expelled from Zaire.

For example, a mechanic, aged 32, his wife, aged 26, and their one-month-old baby were among those

forcibly expelled by the Zaïrian army from Mugunga camp on 20 August.⁸ They had been refugees in Zaire since July 1994 and had not tried to leave, as they believed they would be killed on their return. After being forced back into Rwanda, they returned to their village in Gisa, in the district of Rubavu, prefecture of Gisenyi. At first, they stayed with relatives as their own house was occupied by an “old caseload” returnee. After hearing that they had the right to reclaim their house or that they could cohabit with the occupant, they returned to their home. The illegal occupant left after four days. Both husband and wife were happy to be back in Rwanda. They felt safe and said life was peaceful even though they had not found work yet.

In another case, three young men, aged 19, 21 and 22, interviewed at Nyagatare transit camp had returned voluntarily from Tanzania. Previously, they had been in Burundi but had left because of the violence there. They decided to return to Rwanda because they were tired of the conditions in refugee camps and had heard that it was safe to return. After crossing into eastern Rwanda from Tanzania, they had made their way right across the country to Cyangugu in the southwest. They had not experienced problems on the way and were pleased to have returned.

However, Amnesty International believes that unless adequate measures are taken, the risks faced by returnees are likely to increase considerably in the event of a sudden return of large numbers of people. The Rwandese Government, with the help of the international community, must continue to prepare itself to receive a large number of returnees and to put in place the necessary safeguards for their protection.

3.2.1 Personal vengeance/reprisals against returnees

Although there is no evidence of a generalized pattern of government intention to eliminate returnees, there have been reports of cases of personal vengeance which are not systematically investigated by the authorities. For example, in July 1995, a refugee returning from Burundi to the district of Birenga, in Kibungo in the southeast of Rwanda, was badly injured after being beaten by a neighbour. The man who attacked him was arrested and detained for two weeks, then released. No follow-up was reported.

In another case in the district of Kanzenze in Rural Kigali prefecture, a woman and her four children who had recently returned from Zaire were attacked by a group of four men. Only one child managed to escape: the mother and three other children were killed. The attackers were described as survivors of the genocide acting in revenge for crimes reportedly committed by the woman's husband, who was in prison

⁸ See footnote no.2 on preserving the anonymity of returnees.

for alleged participation in the genocide. In this case, three of the four assailants were arrested, although it is unclear whether they are still in custody or whether they face charges. However, in several other cases, there has been little or no follow-up action to bring those responsible for such reprisals to justice. This may be explicable by the absence of effective legal structures but is serving to perpetuate impunity and is encouraging people to take the law into their own hands.

Denunciations of returnees followed by imprisonment is likely to increase with a mass influx of refugees. Fear of such denunciations is strong among refugees. Among those still in exile, there are undoubtedly many people who were involved in the massacres in 1994 - some in a deliberate and calculated manner, but others against their will. The former government army and militia succeeded in coercing the population to participate in the genocide, for example by forcing people to kill their neighbours under threat of death. Given the huge number of people who were actively or “passively” involved in the massacres - the real figure will never be known - there are inevitably many refugees who are afraid to return to their home areas, knowing that they will probably be recognized as having been associated in some way with the massacres.

In some areas, groups are reported to have been formed within the local community with the purpose of denouncing those alleged to have taken part in the genocide. Such denunciations have sometimes been directed towards returning refugees. In some cases, these groups have been encouraged by local authorities in an attempt to show that justice is being done. There is a generalized tendency to prefer to imprison people "just in case they are guilty". Detainees are generally not given the opportunity to challenge the basis for their detention.

3.2.2 Conflicts in the context of property disputes

Disputes over property and land are likely to be among the main causes of personal reprisals and possible violence and are certain to escalate in the event of a mass return of refugees. Rwanda and Burundi both have a very high population density, estimated at around 208 people per square kilometre in Rwanda and 272 people per square kilometre in Burundi. The acute shortage of land and property is compounded in Rwanda by the return of the “old caseload” which is taking place simultaneously to the return of the “new caseload”. Many “new caseload” refugees are coming back to find their homes occupied by “old caseload” refugees. Some are able to reclaim their home but others are not and some are made to share their home with strangers.

According to existing government regulations, refugees who return to Rwanda after more than ten years in exile (such as those who left in 1959) do not have the automatic right to reclaim their property and land. However, refugees who left the country more recently (such as those who fled in 1994) do have that right. If they return and find their house occupied by an illegal occupant, that occupant has two months within which to leave. When occupying an empty house, the occupant must sign an undertaking to give up the house at the end of the two-month period if the legal owner returns.⁹ If they have not found another home by that time, the Ministry of Rehabilitation has the responsibility to find them another home or provide them with construction materials. This may entail resettlement in some of the more remote areas of Rwanda.

Such regulations appear fair and equitable on paper but difficulties occur in practice. In addition to the shortage of land and housing for the returnees, many houses were destroyed or looted in 1994. Conflicts are likely to arise between the two "sets" of refugees: already there are jealousies and contradictory opinions on which set is receiving preferential treatment. Some Tutsi returnees believe that Hutu returnees are privileged in that they are entitled to return to their home area and reclaim their property and land whereas they themselves are resettled by the government in areas where they do not want to live. On the other hand, Hutu returnees are unhappy to return to find their houses occupied by others who have returned during their exile; some find it difficult to reclaim their property because of intimidation. Some are even afraid to claim rent from their property even though they are entitled to do so. Many end up living for prolonged periods in accommodation lent to them by friends or relatives while waiting for their own home to be returned to them.

There have been cases where people have deliberately engineered the arrest of specific individuals so that they cannot reclaim their property. In such instances, people are arbitrarily arrested on the pretext that they have taken part in the genocide. These initiatives are not necessarily sanctioned by the authorities but arbitrary arrests are allowed to continue without scrutiny of individual cases. A few detainees have had their cases investigated by local authorities, but only after spending several weeks or even months in detention.

3.3 Conclusion

As the level of returns so far has remained low, the extent of the government's commitment to protect

⁹ Amnesty International spoke to people in several areas of Rwanda who said they were aware of this rule, particularly in and around the capital Kigali. However, it is not clear whether the rule applies across the whole country.

returnees has not yet been fully tested. There is a sense of fragility about the peace which returnees may have found so far in Rwanda.

A mass return would most probably lead to a chaotic situation with refugees returning to live in areas where the memory of the genocide is still fresh and the desire for revenge is high. Without sustained action to meet this challenge, not only would such a return cause logistical, humanitarian and property problems on a scale far exceeding Rwanda's capacity to cope but the limited actions which have been taken by the Rwandese authorities to safeguard the rights of returnees are likely to be quickly undermined.

Furthermore, the persistence of human rights violations in Rwanda does not inspire great confidence for the future. Until a fair and functioning system of justice is put in place in Rwanda with the help of the international community, refugees will continue to fear the arbitrariness which may await them.

Amnesty International believes that if a mass repatriation to Rwanda is forced, it is likely to be accompanied by a significant increase in human rights violations by the RPA, as well as reprisals by the local population. Returns can only continue to take place safely in Rwanda if the repatriation is voluntary - even then, the safety of returnees will need to be closely monitored. The government needs to ensure that laws and regulations to protect returnees are effectively enforced and that its own security forces respect human rights.

4. THE RISKS OF RETURN TO BURUNDI

4.1 Overview of the human rights situation¹⁰

Burundi is experiencing a civil war and virtual anarchy, characterised by widespread politically-motivated ethnic killings, ethnic cleansing - where people from either the Hutu or Tutsi ethnic group have been forced to leave particular areas through a policy of human rights abuse and intimidation - and generalized criminality. Political leaders elected in June 1993 have either been killed, forced into exile or rendered unable to exercise political or other control. Survival has become a question of luck.

¹⁰ For a more detailed account of the human rights situation in Burundi, see Amnesty International's report "Burundi: Struggle for Survival", June 1995 (AI Index AFR 16/07/95).

The current crisis is the longest ever in a country that has experienced politically-motivated killings and other abuses for 30 years. It began with the election in June 1993 in which the Hutu-dominated *Front pour la démocratie au Burundi* (FRODEBU) won a majority of seats (65 out of 80) in the National Assembly and its leader, Melchior Ndadaye, was elected Burundi's first Hutu President. Before FRODEBU assumed power on 10 July 1993, there was a pre-emptive coup attempt on 3 July.

Two and a half years on, the President and his allies are unable to exercise any control over the armed forces, who are able to carry out widespread killings and other abuses against assumed or known supporters of the majority party in the government coalition. Most of the abuses have taken place during counter-insurgency and disarmament operations in Hutu-dominated areas. Not only has the government failed to stop or even in most cases condemn the abuses, it has also been unable to order the armed forces to carry out disarmament operations among Tutsi militia.

Disillusionment among FRODEBU supporters has led many of them to join a new rebel group, known as the *Conseil national pour la défense de la démocratie* (CNDD), National Council for the Defence of Democracy, led by former FRODEBU interior minister, Léonard Nyangoma. The CNDD's armed wing, known as *Forces pour la défense de la démocratie* (FDD), Forces for the Defence of Democracy, is currently engaged in battles with government forces in many parts of the country, particularly in Bujumbura and northwestern Burundi. More fighting is reported in southern Burundi between Burundi government forces and Hutu armed groups. Armed groups have been responsible for numerous human rights abuses, including deliberate and arbitrary killings. It has been reported that civilians are buying arms privately, ostensibly for self-defence, and there are more Hutu owning and using firearms than ever before.

Extrajudicial executions by government forces and deliberate and arbitrary politically-motivated killings by armed groups are reported daily. It is estimated that more than 100,000 people have been killed in Burundi since October 1993. As many as 1,500 unarmed civilians are killed each month.

Most of these victims are women, children and the aged.¹¹ Many others have "disappeared" and are presumed dead. The killings in Burundi may not be as intensive as in neighbouring Rwanda in mid-1994, but the numbers are rapidly adding up, with no end in sight. Furthermore, many more massacres go unreported in inaccessible provinces such as Bubanza and Cibitoke in the northwest. No one has

¹¹ For examples of killings in Burundi at the end of 1995, see Amnesty International news service "Burundi: How many more must die before the international community takes action?", 20 December 1995 (AI Index AFR 16/19/95).

been brought to justice in connection with the killings, although several thousand suspects are in custody without trial.

About 5,200 people, virtually all of them Hutu, have been arrested since 1993 and detained without trial in largely overcrowded prisons. Many detainees are routinely subjected to beatings and other forms of cruel, inhuman or degrading treatment at the time of their arrest and while in the custody of the armed forces. Some detainees have been extrajudicially executed and others have "disappeared" in custody. The judiciary appears to be unable to prevent abuses against suspects and has been known to condone or even sanction the abuses. It appears that the Tutsi-dominated judiciary is reluctant to order arrests of Tutsi suspects and does not have the trust of the majority of the population. The justice system is paralysed by the political crises and lack of human and material resources.

In the face of continuing massive human rights abuses by the military and armed opposition groups in Burundi, the government has repeatedly appealed for calm and called on the population to dissociate itself from armed groups - but its appeals have been ignored. A number of leaders of armed groups or militia have reportedly been arrested but the killings continue. Extremists on both sides continue to incite the population to violence. Pervasive insecurity, including attacks on personnel of international humanitarian organizations, has led various non-governmental organizations to suspend their operations in Burundi on several occasions - with direct consequences on the level of assistance to the internally displaced and refugees returning to Burundi. The government has proved its inability to control the perpetrators of this violence.

4.2 The risks of return for refugees and internally displaced persons

Given the insecurity which characterizes Burundi, it is not possible for all refugees or internally displaced persons to return to their homes. Indeed, in many cases, it is not possible for them to return to their country in safety at all. The high level of risk of return to Burundi has been explicitly acknowledged by UNHCR and other international organizations. For those who do choose to return, in contrast to Rwanda, UNHCR does not automatically encourage all returnees to return to their home areas. When refugees were forcibly returned from Zaire in August 1995, many whose homes were situated in unsafe areas, such as the suburbs of Kamenge and Kinama in the capital Bujumbura, or whose homes had been destroyed were not able to return there. They were obliged to stay in the transit camp at Gatumba near the Zairian border.

In one such case, a 36-year-old plumber ¹² from Bubanza had fled to Zaire on 5 May 1995 after his village was attacked by Tutsi militia in the presence of the army, who failed to intervene. He was among those forcibly returned from Zaire to Burundi on 21 August. When Amnesty International visited Gatumba transit camp, he had been there for over one month. He had just learned that his house had been destroyed on 21 September. He felt it was impossible for him to return to his village and preferred to remain in the relative security of the transit camp. He said he would be prepared to go anywhere in Burundi so long as he could live in peace. But, like many other refugees, he felt abandoned on all sides: unable to return to his home in Burundi, forcibly returned from the refugee camp in Zaire, and unable to go to Tanzania because of the border closure.

At Gatumba, UNHCR provides rations and assistance for four weeks to returnees who are expected to return to their home areas. Returnees are transferred to their home areas after a safety assessment has been carried out in conjunction with the Ministry of Reinsertion and Resettlement. Those whose homes are in unsafe areas and who therefore cannot return immediately receive assistance for a longer period. UNHCR and the *Mission internationale d'observateurs au Burundi* (MIOB), International Mission of Observers in Burundi of the Organization of African Unity (OAU), have programs to monitor the safety of returnees once they are back in their homes. These programs are more difficult to implement in Burundi than in Rwanda due to insecurity in the country. If there were UN human rights observers on the ground in Burundi (as there are in Rwanda), they would be able to play an important role in helping monitor conditions for the safe return of refugees.

Refugees in their own country: the internally displaced and dispersed

In addition to the transit camps for refugees returning from neighbouring countries, there are still a number of camps for the internally displaced in Burundi, especially in the north. The internally displaced are mainly Tutsi living in and around towns, or other public places such as churches and schools, where they seek the protection of the armed forces. In October 1995 there were an estimated 200,000 internally displaced persons in Burundi, many of whom have been displaced since the massacres in 1993. Most would not or could not return to their home areas for fear of attacks by Hutu armed groups. Some refugees or internally displaced who returned to their homes subsequently chose to return to the transit camp as they did not feel safe.

In areas most badly affected by the killings, such as Cibitoke in the northwest, some people have had to

¹² See footnote no.2 on preserving the anonymity of returnees.

flee more than three times since the widespread massacres began in October 1993; flight has become almost a routine for people living in these areas. Camps for the displaced are frequently attacked, even when they are guarded by soldiers. For example, about 42 people, including a soldier, living in a camp in Kayanza province were killed on 2 November 1995 by an armed group.

Those who have dispersed into the countryside are usually Hutu who have fled from attacks by members of the security forces and Tutsi militia. There are estimated to be more than 200,000 such persons moving from place to place to evade attacks. They have virtually no protection and have little or no access to medical care or food. Some have tried to grow food, only to be attacked and forced to flee. The food they have grown is then taken away by the attackers who include armed gangs. Some Tutsi gangs operate from camps for the displaced, reportedly in the company of government forces.

The plight of the internally displaced or dispersed is often overlooked as international attention tends to focus primarily on refugees who have crossed the Burundi border. Yet their lives have been torn apart to an equal extent and they are as much in need of protection and assistance. Unlike refugees, internally displaced persons generally have no international organization charged with the responsibility of advocating on their behalf and ensuring their protection, although in Burundi, UNHCR has extended its assistance to internally displaced persons as part of its humanitarian mandate.

It needs to be clearly articulated and accepted that internally displaced persons are entitled to full protection of their human rights. Among these is the right to freedom of movement which entitles people at risk of human rights abuse to flee from one part of the country to another and not to be forced back to unsafe areas. Unfortunately, in a country such as Burundi, the government appears unable to protect the rights of its citizens - in which case, the right to seek protection abroad must not be hindered in any way. In addition, there is a need for systematic international monitoring refugees' safety in camps and particularly upon their return.

4.3. Conclusion

Most refugees from Burundi are too afraid to return to their country due to a well-founded fear of the widespread violence there and of the daily massacres by the security forces and by Tutsi or Hutu militia. Many know that if they returned, even if they managed to stay alive, they would stand little chance of leading a normal life in many areas of Burundi, as political, social and economic activities have been completely disrupted by civil war. The same fears apply to those who are internally displaced within their

own country.

These well-founded fears of killings in Burundi must be taken seriously by governments and agencies aiming for voluntary repatriation. The situation in Burundi is considerably different from that in Rwanda and the risks of return are very real.

5. THE ROLE OF RWANDESE REFUGEE LEADERS IN THE CAMPS ¹³

5.1 Structure and political activity within the refugee camps

Each refugee camp has become an administrative entity and is governed by precise structures - usually local authority structures which had existed under the former Rwandese government and which were transposed straight from Rwanda, enabling leaders to retain tight control of the population. This control enables them to usurp supplies of food and clean water intended for the refugees, some of whom have been obliged to drink lake water with the consequent risk of disease.

In recent months there has been an evolution of political structures and activity within the refugee camps, especially in Zaire. In April 1995, the first openly political organization claiming to represent Rwandese refugees was formed in Zaire: the *Rassemblement pour le retour et la démocratie au Rwanda* (RDR), Rally for the Return of Refugees and Democracy in Rwanda. It has representatives in other countries, such as Kenya, Belgium and France, and has developed an explicit political agenda, including demands for political dialogue and power-sharing with the authorities in Kigali, based in part on the Arusha Accords signed in August 1993 by the former government of Rwanda and the RPF. Others, such as the *Organisation pour le retour au Rwanda* (ORERWA-GUTAHA), Organization for the Return of Refugees to Rwanda, in Kashusha camp have a separate structure but similar demands to the RDR. The government in Kigali has flatly rejected these demands for dialogue on the basis that although it professes independence, the RDR is allied to members of the former army and government of Rwanda responsible for the genocide. Nevertheless, the RDR continues to lobby for its political demands through regular news releases, memoranda and appeals to the international community.

Some other organizations have a less political agenda; for example, the *Association de secours aux élèves*

¹³ This section refers specifically to the role of the leaders in the refugee camps in Zaire but similar structures and problems are also reported in the refugee camps in Tanzania.

réfugiés du Rwanda (ASSERWA), Association for Assistance to Pupil Refugees from Rwanda, was created in North Kivu in response to the insufficiency of educational services in the refugee camps. It has about 100 teachers and 3,000 pupils. There are also a number of active women's associations.

Regular meetings take place in the camps. In Mugunga, for example, there are "*conseils de camp*" (camp council meetings) which follow a formal agenda and are attended by representatives of the refugees, local Zaïrian authorities, Zaïrian soldiers from the CZSC, UNHCR officials and representatives of non-governmental organizations. In Kashusha and INERA, there are regular meetings of those in positions of authority, who in turn organize "*groupes de réflexion*" (discussion groups) for refugees to discuss a variety of issues, including politics, security, and practical questions. Following the forcible return of refugees in August, the question of return has been the priority topic for these discussion groups. The question of whether the refugees should be prepared to negotiate with the authorities in Kigali is another important concern.

5.2 Presence and activity of military elements in the refugee camps

The presence of members of the former government, army and militia among the refugees is central to an understanding of the dynamics of life in the refugee camps and the factors governing their prolonged presence in exile. Some of the former soldiers and militia are grouped in separate camps, for example Panzi and Bulonge in Zaire. But many others are intermingled with the hundreds of thousands of "civilian" refugees and are outwardly indistinguishable from them.

Arms still proliferate in and around the camps. In June 1995, Amnesty International published a report, "*Rwanda: Arming the perpetrators of the genocide*" (AI Index AFR 02/14/95) and appealed to all governments to stop supplying arms and training to those who were responsible for the genocide in Rwanda in 1994. Since then, in a welcome move, the UN has set up an international commission of inquiry into military transfers to the former Rwandese government forces.¹⁴ However, even if further supplies are prevented, there is already a significant quantity of arms in the hands of the former army of Rwanda and the militia along with signs of increasing determination on their part to destabilize the situation in Rwanda.

The former government army and militia are reported to be especially active on Idjwi Island in Lake

¹⁴ See UN Security Council Resolution 1013, 7 September 1995.

Kivu. There are around 40,000 refugees spread over the island intermingled with the local population (the total population of the island is estimated at 110,000). Armed activity on the island has been aggravated by the lack of a permanent presence by either UNHCR or the CZSC. On 4 November 1995, the RPA launched a pre-emptive attack on the small island of Iwawa, close to Idjwi, and killed at least 171 people. The dead were presumed to be *interahamwe* militia or members of the former army of Rwanda who had come from Idjwi and were using Iwawa as a training ground for future attacks on Rwanda. The island of Idjwi is on the Zaïrian side of the border, whereas Iwawa is on Rwandese territory.

There have been allegations of close cooperation between Rwandese and Burundi armed groups in the refugee camps. The regional dimension has also been highlighted by reports that Rwandese *interahamwe* militia are participating in armed incursions and fighting in northern Burundi, alongside their Burundi counterparts, the Hutu armed groups known in Burundi as *bandes armées*.

5.3 Use of propaganda and intimidation to deter return

Members of the former army of Rwanda, the *interahamwe* militia and individuals allied to the former government remain a dominant force in the camps. One of their main objectives is to prevent the voluntary return of refugees to Rwanda, which they fear would undermine their campaign against the current government of Rwanda and expose those among them who played a critical role in the genocide to identification and arrest. The mass flight of Hutus from Rwanda following the RPF victory and the prolonged stay of such a large proportion of the population outside the country has also had the effect of depriving the new government of legitimacy, as well as providing time in which members of the former government and their allies are able to prepare further military activities.

In reality, most of the Rwandese refugees are less concerned about the political and military objectives of their leaders than about living in safety, keeping their families together and eventually regaining their homes and their land. Yet they have become the unwilling victims of those who control the refugee camps.

Central to these tactics of control to prevent return is the diffusion of false information and exaggerated rumours. When interviewing refugees and returnees, Amnesty International found that the real risks of individual killings of returnees by members of the RPA had been distorted out of proportion by extremists in the refugee camps manipulating information for their own purposes. The result is that

almost all genuinely believed that Rwanda was a land of terror where all those who returned would be immediately tortured or killed.

Nevertheless, some refugees have tried to return to their country. These attempts are met with physical and psychological intimidation. The refugees are warned by camp leaders that they will be killed on the road to Rwanda. Sometimes they are beaten to ensure that they do not even make their way to the border. Those responsible for the beatings have told the refugees that they were being kind to them by beating them as this would save them from being killed in Rwanda. There are reports that some extremists have deliberately injured themselves and pretended that these injuries were inflicted by the RPA in an attempt to prove that the RPA is targeting all those who try to return. There are even reports that the *interahamwe* have killed some refugees who tried to return and claimed that they had been killed by the RPA.

An anonymous leaflet circulating in Mugunga camp in September 1995 reads:

"De tous ceux que le HCR a rapatrié il n'en existe plus un seul vivant... Les Tutsi se sont accaparés de tous les biens des Hutu et les téméraires qui essaient de parler sont massacrés sans merci... Le HCR veut rapatrier les réfugiés à sa manière, illégalement, tout en sachant qu'ils vont être tués... Cher frère, nous savons que tu as des problèmes... la solution n'est pas le suicide... Les candidats à la mort peuvent rentrer, ils sont avertis." (Unofficial French translation from Kinyarwanda).

("Of all those made to return by UNHCR, not one has survived... The Tutsi have taken all the belongings of the Hutu and the brave ones who dare to speak out are ruthlessly massacred... UNHCR wants to return all refugees in its own way, unlawfully, knowing that they will be killed... Dear brother, we know that you have problems... suicide is not the solution... Candidates for death can return, they have been warned.")

Some organizations such as UNHCR and independent radio stations have been trying to supply refugees with objective information. However, to date, their efforts have been repeatedly frustrated by the relentless propaganda in the camps.

A 49-year-old farmer¹⁵, married with six children, was among those forcibly expelled to Rwanda from Mugunga camp in Zaire on 22 August 1995. Two months earlier, he had made an attempt to return voluntarily. After word got round that he wanted to leave, his belongings, including his tent and his

¹⁵ See footnote no.2 on preserving the anonymity of returnees.

radio, were confiscated. He did not try again after that. He reported seeing other people being beaten at night as they tried to leave the camp secretly. Eventually he was forced to leave by the Zairian army but was pleased to be back in Rwanda, even though his own house was occupied and one month after their return, he and his family were still living in a house which had been lent to them. During the forcible return, he had to leave one of his sons behind in Zaire. When Amnesty International spoke to him, he had had no news of his son and was too afraid to search for him unaccompanied for fear of reprisals by camp leaders.

View of Kashusha refugee camp, near Bukavu, Zaire.

Another refugee who had returned voluntarily to Rwanda refused to give his name to an independent journalist for fear that his two brothers who were still in Zaire would be killed. Some refugees have informed UNHCR of their wish to return but failed to turn up on the appointed day. Others have been too afraid to register officially. The more determined refugees simply leave in secret so as not to be noticed.

As documented since the start of the refugee crisis, the military and political leaders in the camps are continuing to abuse their power. Not only are they responsible for committing serious human rights abuses in an attempt to intimidate the refugees but, by bringing unfair pressure to bear on them, they are preventing them from exercising a free and informed choice as to whether to return to Rwanda. Such actions are in breach of the international standards already referred to above.

6. THE ROLE OF THE RWANDESE GOVERNMENT

Initiatives by the government of Rwanda to safeguard the rights of returnees

The government of Rwanda has made numerous statements to encourage the return of refugees and stressed that they are welcome to return to Rwanda. In a statement on 5 September 1995, President Pasteur Bizimungu announced that "the government reiterates its unflinching determination to do everything possible to enable the safe return of all Rwandese refugees" and promised that "no efforts will be spared to ensure that every Rwandese enjoys equal rights to citizenship and protection by the government. The return of all the Rwandese is without preconditions and this right is inalienable whatever the circumstances." He offered guarantees that there would be no arbitrary arrests. This speech has been followed up by similar reassurances by other senior government officials.

Several concrete measures have been taken to encourage return and reintegration. For example, reception committees have been formed to receive and settle returnees. The Ministry of Rehabilitation has set up a committee to deal with humanitarian crises in conjunction with local non-governmental organizations, including human rights organizations. In some prefectures, such as Kibungo, the local *préfet* has taken the initiative to set up a crisis committee (*cellule d'urgence*) to prepare for a mass return. There are representatives of the Ministry of Rehabilitation in every district. The Ministry is allocating land to returnees who cannot reclaim their own homes and is assisting in the building of houses and distribution of construction materials and tools to cultivate the land.

A ministerial committee has been set up to deal with property issues. Procedures have begun to be instituted in some areas to limit the illegal occupation of property. If such procedures are respected, they could contribute positively towards resolving some of the most common disputes arising from the return of refugees. However, the authorities will need to be vigilant and to put an end to intimidation, which is already creating situations where the legal occupants of a house are often too afraid to claim back their property or are unwilling to cohabit with existing occupants. In some areas, the local authorities are less willing to enforce the rules than the national government claims.

The government is making efforts to improve women's legal rights with respect to property. At present, women's rights to property are practically non-existent. The law is being reviewed to enable women to inherit property which belonged to male relatives who have died. The Ministry for Women has a broader program of education on women's rights and of income-generating activities for women. These programs are especially important in view of the fact that such a large proportion of the male population of Rwanda has either been killed or remains in exile.

The government has been keen to stress that Rwanda has the capacity to receive large numbers of refugees and that the necessary structures are in place to receive them. However, there are few official, written rules governing procedures for the return of refugees. This leads to inconsistency in procedures and variations from area to area, depending on the individuals in charge at the local levels. Government initiatives so far have tended to focus on logistics and capacity, but there are still very few reliable human rights mechanisms, for example to ensure that returnees are not victims of arbitrary arrests or attacks by soldiers or by the local population. In fact, statements made by some government officials that those resisting return are likely to have been involved in the genocide have created additional pressure and accentuated refugees' fears that all refugees are viewed with suspicion by the authorities inside Rwanda. On the other hand, other government officials have repeatedly stressed that those who are innocent have

nothing to fear.

In some areas, local authorities have shown a positive attitude towards human rights and are cooperating closely with the UN human rights observers. For example, in Butare, plans have been initiated by the local gendarmerie to study the cases of detainees while they are still in the *cachots* and release those against whom there are no proper charges before they are transferred to the official prison. A similar initiative was being considered in Gikongoro. However, other vaguer promises are not always implemented or followed up with concrete action.

Amnesty International believes that human rights safeguards should be provided for all. However, in the event of a mass return, refugees are likely to be especially vulnerable. Action can be taken now to prevent an escalation of human rights abuses by instituting procedures to monitor regularly the safety of returnees and the behaviour of local security officials towards the population in their area.

7. THE ROLE OF THE BURUNDI GOVERNMENT

Initiatives by the government of Burundi to safeguard the rights of returnees

The Burundi Ministry of Reinsertion and Resettlement, created in September 1994 to address the situation of refugees and the internally displaced, is working closely with UNHCR to ensure the safety of refugees who return. Local authorities have visited Gatumba transit camp several times to try to persuade refugees to return to their province, if appropriate, and have succeed in escorting them back, generally without coercion.

As several areas are still considered unsafe, the Ministry has drawn up a plan to build houses in other areas for internally displaced persons or refugees who are too frightened to return to their home areas. In addition to the construction of houses, the plan includes provision of humanitarian assistance and measures to restore confidence and encourage reconciliation. These initiatives may be motivated by positive intentions but there is a fear that the plan for the construction of houses could result in the creation of separate areas for Tutsi and Hutu, as it is unlikely that they would be housed together. This segregation would accentuate divisions in a society which is already extremely polarized along ethnic and political lines.

As in Rwanda, the Burundi authorities have also frequently broadcast radio announcements inviting refugees to return. However, as demonstrated by the low level of returns, these attempts at reassurance have done little to appease the refugees' fears about ongoing insecurity.

8. THE ROLE OF HOST GOVERNMENTS

8.1 The failure to provide protection

Amnesty International opposes the forcible return of any person to a country where they are at risk of serious human rights abuses. The principle of non-*refoulement* is a fundamental principle of customary international law as well as being enshrined in Article 33 of the 1951 Convention and Article II (3) of the 1969 OAU Convention. This principle exists so that those fleeing from danger will be able to find effective and durable protection.

During 1995, Zaire, Tanzania, Burundi and Rwanda have all failed to provide that protection. At different times during the year, Zaire and Tanzania closed their frontiers to refugees fleeing from Rwanda and Burundi and forcibly returned refugees who managed to cross their borders. The border with Tanzania has remained closed since 31 March 1995, although it was opened as an exceptional measure on 17 January 1996 to allow in around 15,000 Rwandese asylum-seekers fleeing from violence in northeastern Burundi .

Thus, acts of *refoulement* were carried out by all four countries. These acts must be placed in the context of the burden borne by these host countries (see below) but are nevertheless in clear breach of these states' obligations under international law.

8.2 *Refoulement* from Zaire: the forced returns of 19-24 August 1995

The most dramatic incident of *refoulement* from Zaire took place on 19-24 August 1995. Approximately 13,000 Rwandese refugees and almost 2,000 Burundi refugees were forced back to their countries by the Zaïrian army¹⁶- in flagrant violation of international law and of the provisions of the tripartite agreement between Zaire, Rwanda and UNHCR, signed on 24 October 1994.

¹⁶ It should be noted that the CZSC, which is distinct from the Zaïrian army, was not involved in the forcible return of refugees.

Even though the forcible returns stopped after five days, they had a significant impact on the remaining refugee population, not so much in terms of numbers but in terms of the realization that refugees could no longer assume that they could safely stay in Zaire until they felt the time was right to return.

At the time of the forcible returns, around 170,000 refugees fled from other camps in Zaire into the countryside to escape being forced back to Rwanda or Burundi. Most are now said to have returned to the refugee camps but the whereabouts of others are still unknown. One example is the camp of Hongo, which was among those hardest hit by the *refoulement*; those who were not returned to Rwanda fled into the hills and the camp was completely razed. There are no guarantees of safety or protection for the unknown numbers who fled into the hills.

There were numerous testimonies of brutality by Zairian soldiers during the days of forcible return. Refugees were beaten in the process of being rounded up for expulsion; some had their belongings and money stolen at gunpoint. Having witnessed the brutality of Zairian soldiers during the five days of forced expulsions, some refugees volunteered to return with UNHCR in the following days. However, the rate of voluntary return steadily declined in the following weeks.

Many families were separated during the forced returns, as Zairian soldiers rounded up refugees at random. Many have still not been reunited and are living on different sides of the border. For example, a 26-year-old Rwandese peasant farmer¹⁷ was forcibly expelled from Mugunga camp to Rwanda with his wife and seven-month-old child but had to leave his six-year-old child and his father behind in Zaire; he had had no news of them since his return to Rwanda.

Similarly, a 58-year-old man from Bubanza province in Burundi was separated from his wife, who had gone to the market when he was picked up by Zairian soldiers on 22 August.

The International Committee of the Red Cross (ICRC) and UNHCR have been making strenuous efforts to try to reunite families and to put in touch relatives living on either side of the Rwanda-Zaire border. There is a need to publicize this service more widely as some returnees who had left relatives behind seemed unaware of it.

¹⁷ See footnote no.2 on preserving the anonymity of returnees.

The imposition of deadlines

The *refoulement* of the Rwandese and Burundi refugees by Zaire was only stopped after it had attracted worldwide condemnation and after intense international pressure had been brought to bear on Zaire. Subsequently, during negotiations with UNHCR, Zaire declared that the remaining refugees on its territory - still over one million - would have to be repatriated voluntarily by 31 December 1995 and threatened to resume its program of forcible returns if this was not achieved. This declaration prompted UNHCR to make massive efforts to step up its program to encourage the voluntary repatriation of refugees, with some initial success in the immediate aftermath of the *refoulement*.

In October 1995, President Mobutu of Zaire announced to foreign journalists that he was personally opposed to the return of refugees against their will. However, several other government officials, including the Prime Minister Kengo wa Dondo continued to threaten to implement the deadline. Subsequently, following talks convened in Cairo on 28 November by former US President Jimmy Carter between leaders of countries of the Great Lakes region and following further talks in December 1995 and January 1996 between the Zaïrian Government and UNHCR, Zaire appears to have backed off from its threat to forcibly return refugees by a particular date.

The threat of the immediate *refoulement* may have receded temporarily, but Amnesty International remains concerned by the unilateral imposition of a deadline for voluntary repatriation - even if it is not adhered to. The voluntary nature of repatriation is placed in jeopardy by imposition of deadlines of this nature. So long as the refugees are aware that a threat of forcible return is hanging over them, it is not possible for them to exercise their right to make a free and informed decision. By using such an arbitrary deadline, Zaire held not only the refugees themselves but the entire international community to ransom and, in so doing, flouted all the international standards regarding repatriation. While Zaïrian government officials have now stated that they will not order another forced repatriation, the Zaïrian Prime Minister has implicitly warned that the Zaïrian population may rise up against the refugees, regardless of official government policy. Such threats must be taken seriously in the climate of increasing tension and insecurity in eastern Zaire described above.

8.3 *Refoulement* from Tanzania

On 31 March 1995, Tanzania closed its borders to refugees from Burundi and Rwanda. The decision was prompted by a mass influx of Rwandese and Burundi refugees following renewed massacres in Burundi

at the end of March. The Tanzanian army reinforced its presence at the border and thousands of asylum-seekers were turned away, especially between April and July 1995. By 5 May 1995, more than 20,000 Burundi and Rwandese nationals - mostly women and children - who had managed to cross the border since 31 March were reported to have been forced back to Burundi. There have also been cases of *refoulement* of Burundi and Rwandese refugees who had reportedly been in Tanzania prior to the border closure. For example, on 4 April, a group of around 300 refugees were forced back into Burundi by Tanzanian soldiers. As many as six were reportedly killed by Burundi soldiers within one hour of their return.¹⁸ On 17 June, Tanzanian soldiers were reported to have fired warning shots at a group of around 250 Rwandese asylum-seekers to discourage them from entering the country. Tanzanian soldiers and local militia are reported to have been responsible for ill-treating Rwandese and Burundi refugees. Some refugees were beaten and raped; others had their belongings stolen.

Rwandese refugees arriving at Benaco refugee camp, Ngara, in Tanzania. Thousands of others have been denied asylum after Tanzania closed its border on 31 March 1995.

On 26 September, the Tanzanian army handed over 36 Rwandese refugees (28 men, three women and five children) to the authorities in Rwanda, claiming they were criminals. After interrogation, the RPA arrested three for alleged participation in the genocide; the others were released. On 4 December, it was reported that 70 Rwandese and Burundi refugees had been expelled from Tanzania, for alleged criminal activities.

Following the *refoulements* from Zaire in August, the Tanzanian government hinted that Tanzania too was running out of patience towards the refugees and implied that they too might begin to forcibly repatriate refugees. Already in May 1995, the Minister of Home Affairs was reported to have stated that the Tanzanian Government was prepared to break international charters on refugees rather than allow the security of its citizens to be compromised. More recently, in December 1995, the newly elected President of Tanzania, Benjamin Mkapa, reiterated that Tanzania would not allow the refugees to stay indefinitely.

On 17 January 1996, around 15,000 Rwandese refugees fleeing from Burundi were exceptionally allowed to cross into Tanzania but the Tanzanian authorities made clear that this was only a temporary measure.

¹⁸ See Amnesty International Urgent Action "Tanzania/Burundi/Rwanda: *Refoulement* / fear of extrajudicial executions", 30 June 1995 (AI index AFR 56/01/95).

8.4 *Refoulement* from Burundi

Burundi has forcibly returned several hundred Rwandese refugees in 1995. More than 300 were returned in the immediate aftermath of the massacre of internally displaced persons at Kibeho in Rwanda, which had led to a flight towards Burundi at the end of April. Around 200 others were forcibly returned in August.

Rwandese refugees in Burundi - unlike those in Zaire - are not allowed to leave the camps without authorization from the Burundi authorities. Those found outside the camps are considered illegal immigrants and are suspected of criminal activities. For example, in September 1995, 13 refugees were forcibly returned to Rwanda after being found outside their camp after dark. The main reason given by the Burundi authorities is that Rwandese refugees may cause further political and security problems in Burundi. Groups of Rwandese refugees found outside the camps are often suspected of being armed Hutu opposition groups (*bandes armées*). The authorities' concern about security is understandable but procedures for respecting the refugee status of those who are apprehended appear to be totally disregarded in these situations and the *refoulement* of the refugees which takes place is in breach of international law. Refugees who are forcibly returned are denied the right to challenge the reasons for their *refoulement* before an independent body. *Refoulement* takes place without any effort by the authorities to inform UNHCR. There is also no mechanism to monitor what happens to the refugees on their return to Rwanda.

8.5 Encouraging impunity

Apart from failing in their obligations under international law to provide protection for refugees from Rwanda and Burundi, some countries hosting refugees have allowed persons who can reasonably be suspected of having participated in mass human rights violations to remain on their territory without being brought to justice. This applies not only to countries in the Great Lakes region, such as Zaire and Tanzania, but also several countries in other parts of Africa and in Europe and North America. Such inaction has encouraged the impunity which is at the source of the cycle of fear, injustice and violence in both Rwanda and Burundi.

Amnesty International's recommendations for bringing to justice the perpetrators of massive human rights violations in Rwanda and Burundi are detailed in the report "*Rwanda and Burundi: a call for action by the international community*" (AFR 02/24/95), published in September 1995. Since that date, none of

the countries hosting large numbers of Rwandese refugees has passed legislation to cooperate with the International Criminal Tribunal for Rwanda, despite repeated announcements of their intentions to do so. Following international criticism, some countries, such as Kenya, proceeded to arbitrarily arrest scores of Rwandese refugees (many of whom were subsequently released)¹⁹ but have still not handed over any suspects to the International Tribunal. In October, Zambia arrested 20 Rwandese. Those arrested in both Kenya and Zambia were reportedly arrested on the basis that they were illegal immigrants; some of those in Kenya were also accused of having been involved in violent crime. In December 1995, Zaire arrested nine Rwandese refugees in Katala camp, reportedly for intimidation of other refugees. They were reported to have been taken to the Zairian capital Kinshasa. It is not known whether they face any formal charges.

The International Criminal Tribunal for Rwanda, established by the UN Security Council on 8 November 1994, has made slow progress. Finally, in December 1995, it issued its first eight indictments. In January 1996, it requested the Belgian authorities to hand over three Rwandese suspects who had been arrested in Belgium several months earlier. The Tribunal is also reported to be investigating the cases of several of those arrested in Zambia. It has announced that the first trials could be expected to begin in March 1996. The Tribunal has stated its intention to concentrate on the cases of those who planned and ordered the genocide - most of whom are outside Rwanda.

In cases where Rwandese refugees are suspected of having been responsible for massive human rights violations, host countries should immediately institute judicial inquiries, with adequate safeguards, to determine whether there is sufficient evidence against the refugees. States can then exercise one of three options: to prosecute the person in their national courts; to extradite the person to another country which may be willing to undertake the prosecution; or, where appropriate, to transfer the suspect to the International Criminal Tribunal for Rwanda. Whichever option is chosen, all suspects should be given guarantees of a prompt and fair trial, which excludes the death penalty.

In the case of Burundi, it was only on 28 August 1995 that the UN Security Council adopted Resolution 1012 calling for the establishment of an international commission of inquiry to establish the facts relating to the assassination of President Melchior Ndadaye on 21 October 1993 and the massacres which followed, and to recommend, among other things, measures to bring to justice those found responsible for the massacres. By early January 1996, the commission of inquiry had reported little progress and

¹⁹ See Amnesty International Urgent Action "Kenya: Arbitrary arrests/fear of torture/fear of *refoulement*", 6 December 1995 (AI Index AFR 32/34/95).

appears to have been hindered by insufficient resources and security problems. There is a glaring gap between repeated international condemnation at the highest levels of the UN of mass human rights violations in Burundi, and the continuing paralysis of intergovernmental organizations in helping to end the impunity which protects those responsible for these human rights violations.

9. THE ROLE OF FOREIGN GOVERNMENTS AND INTER-GOVERNMENTAL ORGANIZATIONS

In the Great Lakes region, the international community has been faced with one of the world's largest refugee crises and has failed to meet the challenges that it posed. While the *refoulement* of refugees from Zaire in August 1995 attracted widespread condemnation, it quickly became clear that the response of foreign governments and inter-governmental organizations was inadequate to deal with the threat of further *refoulement* from Zaire or Tanzania. Nor was the international community effective in taking steps to share the burden of the massive numbers of refugees on the territories of those countries which may have caused them to take such unprecedented actions in the first place. Most importantly, the search for ways to encourage voluntary repatriation appears to have obscured the need to find long-term solutions which would prevent a situation where large numbers of people might be forced to flee Rwanda and Burundi again.

9. 1 The threat of further *refoulement*

UNHCR and other international agencies working in the Great Lakes region were thrown into a crisis when Zaire began forcibly returning thousands of Rwandese and Burundi refugees on 19 August 1995. A series of intensive high-level negotiations with the Zaïrian authorities was launched. The outcome was that the forcible repatriation was stopped, but only temporarily. Zaire declared that it would give UNHCR until 31 December 1995 to voluntarily repatriate all remaining refugees but, if repatriation was not complete by that date, forcible repatriation would be resumed. In effect, the threat of further *refoulement* was explicitly allowed to remain. There is no certainty that Zaire's subsequent undertaking not to forcibly return refugees will be adhered to.

Amnesty International appreciates that UNHCR and non-governmental organizations working with the refugees found themselves in a seemingly intractable dilemma following the imposition of the deadline - caught between Zaire's ultimatum for mass repatriation and the principle that all repatriation should be

voluntary. It is perhaps understandable that, faced with such a situation, UNHCR should opt for the only apparent solution - "persuading" refugees to return home in a bid to comply with the deadline. However, in doing so, UNHCR was failing in its obligations to the refugees, firstly because it was clear that such an undertaking was impossible to achieve in the time imposed. Secondly, and more importantly, UNHCR allowed itself to support (and indeed organize) a repatriation initiative where the risks of return were minimized and the requirement for voluntariness diluted.

UNHCR strongly condemned Zaire's attempts to impose a deadline and its threat of *refoulement*. Nevertheless, faced with the ultimatum, it promptly shifted more of its attention and priorities from providing aid and protection in the camps to persuading the refugees to return voluntarily. Some of the efforts made by UNHCR in this regard were the continuation or intensification of positive initiatives that had begun before the events in August. These included a mass information campaign to provide refugees with objective information about the situation in Rwanda and Burundi - a campaign which uses the resources of radio stations (such as the independent *Radio Agatashya* in Zaire and *Radio Kwizera* in Tanzania), interviews with refugees who had returned and with residents in their home areas, and other independent reports. UNHCR also organized short visits by refugees to their home areas to see for themselves what the situation was like as well as visits back to the refugee camps by people who had recently returned so that they could inform friends and relatives about the situation. UNHCR's efforts in this regard are commendable and should be maintained; they should also be given the necessary financial support to ensure that they can continue.

However, some of the other methods adopted by UNHCR have been questionable. It was clear that a degree of coercion would be inevitable if UNHCR was to meet (or try to meet) the deadline imposed by Zaire. This element of coercion was admitted by some UNHCR officials who accepted that, by adopting a policy of trying to "persuade" the refugees that their only option was to return home, the return could be described as involuntary. Thus, to an extent, UNHCR found itself acting in contradiction of its own Guidelines and Conclusions of its own Executive Committee, by failing to respect fully the individual and voluntary character of the decision to return. Other measures taken by UNHCR, such as reducing the level of food assistance in the camps from 2,000 to 1,500 calories for the purpose of "persuading the refugees to go home", are also indicative of this failure.

Prior to the forcible repatriations in August, UNHCR had already been working on a program of voluntary repatriation for Rwandese refugees and had signed tripartite agreements with the governments of Rwanda and Zaire, Rwanda and Tanzania, and Rwanda and Burundi. The response to the program

was poor: the refugees remained unwilling to return home. Following the forcible repatriations, UNHCR made attempts to revive the spirit of the original agreements (which, of course, provided that repatriation be voluntary) by signing a further agreement with Zaire and Rwanda in September 1995. In this agreement, a commitment was made to a "voluntary", "massive", "organized" and "accelerated" return of refugees in safety and dignity. This move was undoubtedly motivated by good intentions on the part of UNHCR, but the agreement contained inherent inconsistencies in that an "accelerated" return calls into question the commitment to "voluntary" return. The question was whether UNHCR could carry out its commitment to respect the need for voluntariness in face of the deadline. Some of the inherent difficulties were acknowledged by the High Commissioner for Refugees during meetings with the Zairian Government, when she stressed that the aim of voluntary repatriation of all refugees in safety and dignity by the end of the year was unrealistic.

On 20 December 1995, UNHCR held a further meeting with representatives of the governments of Rwanda and Zaire to discuss measures to step up repatriation efforts to Rwanda. They reiterated that repatriation was the only viable solution and reaffirmed their commitment to respect its voluntary nature. However, also in December, UNHCR noted that it would be premature to promote voluntary repatriation to Burundi, in recognition of continuing insecurity there.

Amnesty International believes that in the face of Zaire's actions in August 1995, UNHCR should have stood firm on the principles of voluntariness of return in safety and dignity, and that they should have insisted on Zaire's obligation to provide the refugees with protection and appealed to the international community of nations to support this stand.

These principles remain important. *Refoulement* could resume at any time. The foundations of the institution of asylum have been undermined by the reluctance of the international community generally and UNHCR in particular to question seriously the ultimatum imposed by Zaire. It will require strict resolve and support for the principle of protection to ensure that such a situation does not occur again.

9.2 Sharing responsibility

When a country of asylum is faced with a sudden and massive influx of refugees, its resources and capacity to cope are placed under enormous strain. In such a situation, foreign governments and intergovernmental organizations have a responsibility to provide the country of asylum with the necessary resources to continue providing protection for those at risk. The prolonged presence of such massive

numbers of refugees from Rwanda and Burundi has had a devastating impact on the countries of asylum - primarily Zaire, Tanzania and Burundi - and has affected their economy, environment and security. An international response to the crisis in the Great Lakes region cannot be adequate unless it takes these factors into account.

9.2.1 The impact of the refugee populations on host countries

Both Zaire and Tanzania already faced grave economic problems before the mass influxes of refugees in 1993 and 1994. Feelings of resentment have built up among the local population who believe that the refugees are benefiting from a higher standard of living because of aid provided by international agencies and because of the refugees own commercial activities. Some local Zairians have lost their livelihood, because refugees are prepared to work for lower wages. In addition, disruption has been caused to institutions such as schools and hospitals whose facilities have been overstretched.

Vegetation, crops and wildlife have been destroyed. Near Bukavu, in Zaire, the sharp contrast between the barren hills where the camp of Hongo (now closed) once stood and the lush vegetation on the hills nearby is a dramatic illustration of the environmental devastation. The town of Bukavu, on the edge of Lake Kivu, was once a beautiful site which attracted many tourists - it is now described by local inhabitants as a "dustbin".

There has been an escalation of violence connected with the presence of refugees. In Zaire, since August 1995, there has been a sharp increase in the use of land mines and bomb and grenade attacks. Between September and December 1995, several people were killed or injured. Victims include several Zairians as well as members of international humanitarian organizations. It is not clear who is responsible for these attacks. In the context of increasingly hostile relations between Zaire and Rwanda, various parties have been blamed, including Rwandese refugees, the *interahamwe* militia, the Zairian army and the RPA. The escalation of these attacks coincided with Zaire's threat to repatriate all refugees by the end of 1995 and seemed deliberately timed to draw international attention to the situation in the region. The insecurity in and around the camps has led to the subsequent imposition of curfews and border closures on several occasions.

Zairian nationals of Tutsi origin have been blamed by the Zairian authorities for some of this violence, including an alleged plot in November 1995 to plant a bomb on an aeroplane due to carry the Chief of Staff of the Zairian army and the Chief of Staff of the former Rwandese government army. Several

Tutsi were arrested in Goma -some of them arbitrarily - and some reported being beaten in detention. Two were reportedly expelled from Goma to Rwanda and one to Burundi on 20 December. Insecurity also appears to have fuelled strong anti-Tutsi - or more broadly anti-Rwandese-feelings among the local population in Goma, in some cases encouraged by articles in local newspapers. On 22 December, a Tutsi family was attacked by local residents who accused them of being responsible for a mine explosion two days earlier.

The influx and prolonged presence of so many Rwandese refugees in eastern Zaire has also stirred existing intercommunal unrest in the districts of Masisi and Walikale in North Kivu. In 1993, clashes between the Banyarwanda (Zairians of Rwandese ethnic origin) and several other Zairian ethnic groups resulted in thousands of deaths. Tensions resumed in 1994 and 1995, leading to the loss of at least several hundred lives. In June 1995, there were reports of clashes between Banyarwanda - this time allegedly supported by former Rwandese Hutu militia and members of the former Rwandese government army - and other ethnic groups. An unconfirmed number of people died in further clashes in December 1995. Fighting in the area has been fuelled by the large quantities of arms and arms trafficking in the region, accentuated by the presence of Rwandese militia and former soldiers.²⁰

There have been reports of Tanzanians being attacked, raped or killed by Rwandese or Burundi refugees. In September 1995, it was reported that 112 Tanzanians had been killed by Rwandese refugees involved in banditry or robbery. There has also been an increase in tension between the Tanzanian and Burundi authorities as the Tanzanian authorities have repeatedly complained about incursions by the Burundi army into Tanzanian territory.

In Burundi, Rwandese Hutu refugees have often been accused by government and security authorities of being members of the *interahamwe* militia and acting in collusion with extremist Hutu groups in Burundi. In some cases, they have been accused of direct responsibility for violence against Burundi nationals. For example, on 2 August 1995, it was reported that a Rwandese refugee had been responsible for a grenade attack in a refugee camp in Kirundo, in the north of Burundi, in which seven people were killed.

9.2.2 The failure to share the burden

Overall, the international community has failed in its efforts to share the burden of the refugee crisis in the

²⁰ See Amnesty International report "Rwanda: Arming the perpetrators of the genocide", 13 June 1995 (AI Index AFR 02/14/95)

Great Lakes region - which has fallen principally on Zaire, Tanzania and Burundi.

One of the motives attributed to Zaire for first forcibly returning refugees in August and then setting an ultimatum of 31 December 1995 was that the Zaïrian Government was seeking to attract greater material aid and support from the donor community. It is significant that the forcible returns came at a time when there was a significant shortfall to fulfil pledges already made by the donor community. The result was that only a little over half the necessary resources were made available. If Zaire's intention in carrying out the forcible returns really was to draw attention to this situation, although its methods were certainly deplorable and not justified, there was a real grievance which needed to be addressed by the international community.

Aid and other resources have been forthcoming to Zaire since August 1995 but it is entirely wrong that a state should feel obliged to take such an outrageous step as forcibly returning thousands of refugees in order to ensure that donor governments respond to the crisis. This situation has set a dangerous precedent, which could encourage other countries, such as Tanzania, to follow in Zaire's footsteps. It is necessary for the donor community to take more seriously its responsibilities for sharing the material burden of the refugee crisis in the Great Lakes region. It must ensure that no state ever feels justified in resorting to *refoulement* and putting the lives of refugees in danger in order to get other states to live up to their obligations.

In addition, efforts to relocate refugees further away from the borders with their home country have been noticeable by their absence. Given that the majority of Rwandese and Burundi refugees still appear unwilling or unable to return to their country in the immediate future, short-term relocation within the host countries where they are currently living could be considered. The refugee camps, particularly in Zaire, are located very close to the borders with Rwanda and Burundi. This has created various problems described above, in particular insecurity arising from cross-border incursions and conflicts with the local population. Refugees who do not yet feel it is safe for them to return should be given the option of being relocated in another area of the host country, further away from the border, and where, in the case of Zaire, self-reliance may be easier.

9.3 International presence as protection for returnees

Since 1994, Amnesty International has been calling for the deployment of human rights observers in both Rwanda and Burundi. The report published by Amnesty International in September 1995 ("*Rwanda and*

Burundi: a call for action by the international community", AI Index AFR 02/24/95) sets out some of the positive achievements of the UN Human Rights Field Operation in Rwanda (UNHRFOR).²¹ Regrettably, in Burundi, a similar human rights operation has still not been set up, despite repeated UN promises to do so in 1994 and throughout 1995. Finally, on 9 January 1996, the European Union signed an agreement to finance the deployment of an initial five human rights observers in Burundi, to be followed by further observers during 1996, bringing the total to 35.

In spite of the many difficulties anticipated and encountered by such operations, the experience in Rwanda has shown that international observers can play a positive role in areas affected by widespread human rights abuses. In Rwanda, the presence of UNHRFOR, UNHCR and UNAMIR and the combined efforts of the three operations have contributed towards creating a climate of relative stability and confidence, despite limited resources. The knowledge that international organizations are monitoring human rights abuses in Rwanda has acted as a form of reassurance for people within Rwanda, as well as for refugees contemplating return.

In contrast, the situation in Burundi is steadily deteriorating yet there is no operation equivalent to that in Rwanda to provide reassurance. It is no coincidence that the level of human rights abuses in Burundi, where there is still no fully-fledged human rights operation, is so much higher than in Rwanda at present. Amnesty International recognizes the significant security threats which such operations face but this does not justify the prolonged delays of the UN and the EU to come up with the promised funds for the human rights operation in Burundi.

In Rwanda, UNHCR and UNHRFOR are playing a particularly important role in monitoring the return, reintegration and safety of refugees. UNHRFOR, in particular, has invested significant resources and energy in monitoring the safety of returnees and in planning a strategy for ensuring their protection in anticipation of a mass return. However, continuing uncertainties concerning the future funding of UNHRFOR are threatening to seriously undermine the crucial role which this operation is expected to play in monitoring the human rights situation of returnees. Due to short-term financial arrangements, human rights observers who leave Rwanda after short-term contracts are not automatically replaced and the overall number of observers has effectively been reduced - at a time when additional presence on the ground is most needed. On 10 January 1996, the High Commissioner for Human Rights warned that the operation in Rwanda would be seriously threatened unless additional resources were provided.

²¹ UNHRFOR was set up in the second half of 1994. Its mandate includes investigating violations of human rights and humanitarian law including possible acts of genocide; implementing programs to assist the administration of justice; helping re-establish confidence to facilitate the return of refugees and displaced persons; and monitoring the ongoing human rights situation.

UNHCR's monitoring program may also be ill-prepared for the consequences of a mass return because of inadequate staffing. For example, in September 1995, in the critical border areas of Gisenyi and Ruhengeri to the northwest and Kibungo to the southeast, there were only two and three UNHCR staff respectively to cover very large areas. The possibility of systematically following up the situation of returnees was therefore extremely limited. This highlights the need for continued close cooperation between UNHCR and UNHRFOR, but cooperation should not be allowed to obscure the limitations on each agency caused by inadequate resources and uncertain budgets.

UNHCR and UNHRFOR have also worked closely with UNAMIR, whose presence in Rwanda has been extended until 8 March 1996 with a view to assisting the smooth return of refugees to Rwanda. UNAMIR has been instrumental in providing security and practical assistance, as well as up-to-date information on the overall security situation in the country. The unarmed military observers are also playing an important role in patrolling the countryside, gathering information on returnees and their reintegration and remaining alert to potential areas of conflict. Even though the size and mandate of UNAMIR have been further scaled down since December 1995 on the insistence of the Rwandese Government, Amnesty International believes that UNAMIR can still play an important role in helping Rwanda cope with a massive return of refugees in the near future. Coordination of an integrated international strategy for human rights protection in Rwanda will be especially important after the eventual withdrawal of UNAMIR from March 1996.

Ongoing cooperation between all the above agencies and the Rwandese Ministry of Rehabilitation continues to be essential. Furthermore, to play a truly effective role in rebuilding confidence among the population in Rwanda and in exile, UN personnel have a duty to ensure that they do not remain silent in the face of human rights violations taking place in Rwanda. Public reports on the human rights situation would go a long way towards exposing and rectifying human rights violations as well as providing much-needed independent information to those inside and outside the country.

9.4 Regional peace initiatives

There have been various attempts by the international community to bring together the authorities of the countries in the region to seek solutions to the refugee crisis and to the political conflicts in Burundi and Rwanda. These have included a regional summit in Nairobi, Kenya in January 1995 and a regional conference organized jointly by UNHCR and the OAU in Bujumbura, Burundi in February 1995.

The UN, the OAU and individual foreign governments have proposed or supported further initiatives, including a regional Conference on Peace, Security and Development which was to have been organized by the UN. But both this conference and an earlier initiative by the OAU to bring together parties in Burundi have been repeatedly delayed or abandoned because of the lack of political will of some of the parties concerned.

In November 1995, former US President Jimmy Carter launched a process of talks with the governments of the countries in the Great Lakes region aimed at resolving the refugee crisis and the ongoing conflict in Burundi. An initial meeting on 28-29 November in Cairo brought together leaders of Burundi, Rwanda, Zaire, Tanzania and Uganda. Amnesty International sent appeals to all the parties to these talks, urging them to agree on human rights safeguards as a priority in seeking solution to the conflicts of the region. However, the final declaration of the summit was disappointing: it failed to recommend concrete measures to protect human rights and merely reiterated previous general promises which several parties to the talks have repeatedly broken in the past. Amnesty International believes that many peace talks have either failed or achieved limited success because mechanisms to investigate and remedy human rights violations have not received sufficient attention or commitment.

10. RECOMMENDATIONS

Respect for human rights is the key to any successful resolution of the refugee crisis in the Great Lakes region. Amnesty International is therefore urging all governments to view the refugee situation as a human rights issue and not purely a humanitarian or political matter and to state explicitly their support for human rights as a priority.

In particular, Amnesty International calls upon all governments and organizations concerned to fully respect the international standards governing the repatriation of the refugees and refrain from returning refugees to a situation where they might be at risk of serious human rights abuses.

In addition, Amnesty International asks states to recognize that the provision of a fair system of justice in Rwanda and Burundi, which inspires trust, is an essential requisite for the voluntary return of refugees as well as for the long-term protection of human rights. All states should provide the support and resources necessary for these conditions to exist.

10.1 Recommendations to the governments of Rwanda and Burundi

Amnesty International recommends that the governments of Rwanda and Burundi:

- make all possible efforts to create conditions conducive to the voluntary return of refugees, in particular by ensuring that human rights are respected throughout the country
- take all necessary steps to ensure the safety of refugees who return and to monitor their safety regularly after they have returned to their home country
- continue cooperating closely with international agencies such as UNHCR and UN human rights observers in ensuring the safety of returnees
- ensure that journalists and human rights activists who are attempting to broadcast or distribute objective information about the situation in Rwanda and Burundi are able to do so without threats or fear of reprisals

For the government of Rwanda:

- stop arbitrary arrests and prolonged detention without charge or trial
- transfer responsibility for arrests from the RPA to the relevant police and civilian authorities as soon as these are in place
- recognize the failure of the *commissions de triage* and replace them with a new mechanism which has the legal status to release prisoners against whom there is insufficient evidence and proceed with this work as soon as possible.
- take immediate measures to end the cruel, inhuman and degrading treatment and torture taking place in detention centres
- speed up the process of transferring detainees to additional prison sites as a temporary measure to relieve the overcrowding

- pass the necessary legislation to allow foreign legal experts to work in Rwanda to accelerate the process of reconstruction of the national judiciary
- ensure that all RPA practices which lead to the extrajudicial execution, “disappearance” or ill-treatment of unarmed civilians are immediately stopped. All reports of such practices must be investigated and the findings made public within a reasonable time. It must be made clear to those responsible at all levels of the RPA that human rights violations will not be tolerated and that those found guilty will be brought to justice, in fair trials which exclude the death penalty.
- publicly denounce reports of human rights abuses whenever they occur -including by their own forces - to help restore faith in the government’s will to respect human rights
- take immediate and prompt action in all cases of personal vengeance or reprisal to ensure that those responsible are apprehended and brought to justice. It should be made clear to the local population that uncorroborated denunciations are not sufficient to lead to an arrest. The government is encouraged to take preventive action to ensure that people do not take the law into their own hands, for example by increasing awareness among the local population of the existing lawful procedures and encouraging people to refer cases to the relevant authorities.

For the government of Burundi:

- take steps to prevent attacks on or by people living in refugee camps or camps for the internally displaced
- ensure members of the security forces themselves do not carry out or condone attacks on refugee camps and dispersed populations, but rather prevent such attacks and take action within the law against perpetrators of such attacks
- provide protection to refugees returning to Burundi from attack and other human rights abuses
- publicly denounce human rights abuses and take action to end impunity in Burundi to gradually restore confidence among the refugee population
- ensure the impartiality of the judiciary to enable them to institute independent investigations into human rights abuses

For Burundi armed group leaders:

- make it clear to members of armed groups that attacks on unarmed civilians are human rights abuses and a violation of humanitarian law, and that those responsible for such abuses should expect to be brought to justice when peace returns to Burundi
- prevent attacks on unarmed civilians, including the displaced and the dispersed, regardless of their ethnic or political affiliation

10.2 Recommendations to leaders in refugee camps

Amnesty International recommends that leaders in the refugee camps:

- refrain from exerting pressure of any kind upon any of the refugees with regard to their decision on whether to return to their homes
- refrain from taking any measures designed to prevent refugees from returning home once they have made the decision for themselves
- stop spreading false information about the situation in Rwanda and Burundi
- condemn human rights abuses perpetrated by armed groups in exile and prevent further human rights abuses against refugees and against civilians in Rwanda or Burundi, in particular in the context of cross-border incursions
- cooperate with the authorities of the host country and the International Criminal Tribunal for Rwanda in identifying and investigating the cases of people suspected of having participated in the genocide

10.3 Recommendations to host governments

Amnesty International recommends that all governments hosting refugees from Rwanda and Burundi:

- refrain from forcibly returning refugees to Rwanda or Burundi or to any country where they might face serious human rights violations, in accordance with their obligations under UN and OAU conventions relating to refugees
- fully respect the principle of non-*refoulement* and other international standards concerning the repatriation of refugees and honour the commitments to voluntary repatriation made in tripartite agreements with UNHCR
- explicitly and permanently withdraw any threats of *refoulement* or ultimatum and refrain from imposing any arbitrary deadlines for the repatriation of refugees
- keep open their borders to refugees who are at risk of human rights abuses if they remain in Rwanda or Burundi
- ensure that refugees are not ill-treated or subjected to human rights violations by the security forces of the host country; investigate all reports of such violations, make public the findings and bring those responsible to justice
- closely monitor physical and psychological intimidation and human rights abuses taking place in the refugee camps and isolate those responsible for these abuses
- cooperate fully with the UN international commission of inquiry to investigate reports of military training and transfers to former Rwandese government forces
- make serious efforts to cooperate with the International Criminal Tribunal for Rwanda, in particular by passing the necessary national legislation for cooperation and by handing over suspects when requested to do so by the Tribunal
- institute judicial inquiries into the role of individual refugees suspected of responsibility for mass human rights violations. If there is sufficient evidence against them, prosecute them in a national court or extradite them to another country willing to undertake the prosecution, with international guarantees of a fair trial without use of the death penalty. If appropriate, they should be handed over to the International Criminal Tribunal for Rwanda.

While attempts to arrest suspected perpetrators of the genocide and other human rights violations are

to be encouraged, authorities of the host country must ensure that refugees are not arbitrarily arrested or unlawfully detained purely on the basis of their nationality or ethnic origin.

10.4 Recommendations to foreign governments and international organizations

Foreign governments working together with relevant IGOs should:

- search for long-term solutions to the refugee crisis in the Great Lakes region. It should be recognized that mass repatriation, by itself, is not a long-term solution unless steps are taken to ensure lasting respect for human rights in Rwanda and Burundi. Without such progress, there is every chance that mass repatriation will result in a continuation of widespread human rights abuses which will once again cause large numbers of people to seek asylum in neighbouring countries.
- adopt a coordinated overall strategy for preventing further mass human rights violations in the Great Lakes region
- carry out their commitment to monitor military, security and police transfers to the Great Lakes region to ensure that such transfers do not contribute to further human rights violations. Until such monitoring mechanisms are in place, the safety of refugees from Rwanda and Burundi continues to be under threat.

UNHCR and other international agencies involved in assisting the refugees should:

- ensure that any repatriation of refugees to Rwanda and Burundi takes place only in accordance with international standards which require voluntariness, safety and dignity
- insist that these requirements and the obligation of host governments to provide protection be fully respected in the face of all pressure to speed up repatriation
- continue to support efforts to create conditions conducive to a voluntary return
- maintain efforts to provide refugees with regular impartial information about the human rights situation in Rwanda and Burundi. The mass information campaign with independent radio broadcasts, "go and see" visits and other initiatives is a positive development which should remain a priority and be

given the necessary resources

- continue with efforts to monitor the situation of returnees in Rwanda and Burundi immediately after their return, and after their resettlement or reintegration, and provide the necessary resources for a thorough monitoring program

UNHRC and other international agencies involved in monitoring human rights should:

- continue their efforts to monitor the human rights situation, including that of returnees
- publish regular public reports on the situation in Rwanda as a major contribution towards providing refugees with independent information on the level of risk facing them on their return and enabling them to make an informed choice about their return

The international donor community should:

- continue providing financial and material assistance for the reconstruction of institutions in Rwanda and Burundi which would contribute towards respect for human rights - in particular, reforms or reconstruction of the judiciary and police force, and assistance to the judiciary to screen the prison population and release those against whom there is insufficient evidence

However, donor governments should make clear to authorities in Rwanda and Burundi that lack of resources can never be used as an excuse for human rights violations and insist on the immediate implementation of human rights reforms which are not dependent on additional resources

- continue to provide aid and material assistance in a timely fashion to countries hosting large numbers of refugees to lessen the strain on usually scarce local resources
- enable the deployment of human rights observers in Burundi as soon as possible
- ensure that international organizations carrying out essential human rights work in Rwanda are provided with sufficient funds and security arrangements to carry out their work as efficiently as possible. In particular, UNHRC should have the necessary financial stability to pursue its work in

Rwanda without disruption.

- ensure that the International Criminal Tribunal for Rwanda is provided with adequate resources to continue its work

Parties involved in mediation or peace talks to resolve the conflicts in Rwanda and Burundi should:

- ensure that human rights issues are at the centre of their discussions in recognition of the fact that it is the daily violation of human rights which lies at the core of the conflicts in the region, and particularly of the refugee crisis
- ensure that concrete measures to protect human rights are prioritized in their recommendations.

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