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MEDECINS SANS FRONTIERE

DEADLOCK IN THE RWANDAN REFUGEE CRISIS :

Virtual Standstill on Repatriation

July 1995

SUMMARY

The repatriation of about two million Rwandan Hutu refugees from countries neighbouring Rwanda has come to a virtual standstill. Parts of the Rwandan Government and the Rwandan population consider the refugee camps to be a clear threat to their security. Fear of reprisal killings, mass arbitrary arrests, reports about grossly overcrowded prisons, the lack of an effective judicial system and the control exercised by their leaders over the camps have prevented many refugees and internally displaced people (the displaced) from returning home.

One year after the genocide in Rwanda in which Hutu extremists systematically slaughtered between 500.000 and one million Tutsi and moderate Hutus, there is still no justice for the victims and their families. The killers continue to go unpunished and some of those responsible for the genocide walk freely in the Rwandan refugee camps in Tanzania and Zaire, controlling the camp populations and preparing for renewed attacks.

The former Rwandan Government officials have taken steps to improve the public image of the camps in order to ensure continued humanitarian assistance. However, these changes are cosmetic and in fact little has changed since November 1994, when MSF said that the situation in the camps could not be sustained. On the surface, the climate in the camps has improved. Aid workers are no longer threatened, soldiers are rarely seen, and militia training no longer takes place in public. Many members of the military have left the camps and those who remain wear civilian clothes. However, the same government officials who incited the Hutu population to genocide with extremist propaganda continue to manipulate the refugees by controlling the flow of information and political discourse in the camps. They talk tirelessly about the victimization of the Hutu people.

Criminal trials, national or international, have yet to take place. Despite their pledges, the international community has failed to give adequate support to rebuilding Rwanda's judicial system which continues to be severely hampered by a lack of human and material resources. Countries in which alleged perpetrators of the genocide reside have failed to bring them to justice. The Deputy Prosecutor of the International Tribunal for Rwanda, created in November 1994, has announced that he expected the first indictment to be handed down at the beginning of 1996.

Rwanda lacks the resources either to house its detainees properly or try them effectively. Nevertheless, mass arrests of alleged perpetrators of the genocide continue. Roughly 49,000 people are detained in overcrowded prisons and lock-ups. For example, Gitarama prison, which was designed for 400 prisoners in reasonable conditions, now holds nearly 7,000.¹ The absence of basic sanitary and hygienic conditions has led to alarmingly high mortality rates. The average rate for the first three months of 1995 was 9.6/10,000 per day whereas 2/10,000 per day is already considered a

¹ MSF report *Health Status of the Inmates of Gitarama Prison, Rwanda*, June 1995.

full-scale emergency.

At the end of 1994, the Rwandan Government declared that the camps for the internally displaced in southern Rwanda, believed to harbour Hutu militia, must be closed. By April 1995, an estimated 250,000 out of the original 380,000 displaced remained in the camps. *Operation Retour*, agreed between the Rwandan Government, UNAMIR and UNREO, failed to convince the vast majority of the displaced to return voluntarily to their home communes.

On 22 April 1995, thousands of displaced in Kibeho were massacred by the RPA during the forced closure of the camp. UNAMIR failed to protect the victims.

The Rwandan refugee camps in Zaire, Tanzania and Burundi cannot be sustained in the long term. Those suspected of genocide who still reside in the camps and elsewhere should be arrested and tried. The remaining refugees should be free to decide whether to return to Rwanda.

This report looks at factors from both inside and outside Rwanda which have led to the virtual standstill in repatriation. One year after the mass exodus from Rwanda there are still no lasting solutions for the regional refugee crisis. This report also addresses the issue of impunity, as MSF has always maintained that it should be a priority that those responsible for the genocide be brought to justice without delay, and that the refugee camps in which MSF provides humanitarian relief should not be given the *de facto* status of safe havens for those who committed crimes against humanity. Further this report reflects on the moral dilemma faced by MSF and many other aid agencies working in camps in which killers walk freely and where preparations are made for a military intervention into Rwanda aimed at further massacres of the Tutsi population.

Improvements in humanitarian aid and the comparable calm in the camps belie the fact that those who instigated, prepared, or committed acts of genocide and serious violations of international humanitarian law continue to control the camps and manipulate the population for their own political ends. It is widely reported that they are rearming for a renewed attack. Continued impunity in the refugee camps, in Rwanda and in UN Member States harbouring the killers, coupled together with the rearmament of the former Rwandan Armed Forces and militia, will only lead to a further cycle of violence. This cycle must be broken.

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I. THE RWANDAN REFUGEE CRISIS: A BRIEF BACKGROUND

The spring of 1994 marked the most tragic period in the Rwandan history as between 500.000 and one million men, women and children were brutally murdered during a violent campaign of genocide committed by forces loyal to the Rwandan Government.

1. The Genocide and its Aftermath

On 6 April 1994, President Habyarimana of Rwanda and President Ntaryamira of Burundi were killed when their plane was shot down as they returned to Kigali from talks in Arusha. The Arusha Peace Accords signed in August 1993 between the Tutsi-dominated Rwandan Patriotic Front (RPF) and Habyarimana's Hutu regime, provided for a transitional government in Rwanda and eventual legislative elections. The United Nations (UN) Security Council deployed the United Nations Assistance Mission for Rwanda (UNAMIR) to oversee implementation of the Accords.² However, Hutu extremists opposed to the principle of power-sharing and already intending to eliminate political opponents, consistently undermined the Accords. As a result the transitional government was never installed.

The genocide following the plane crash was masterminded by extremist politicians intent on manipulating tensions between Hutus and Tutsi in order to decimate the opposition. Almost immediately after the plane crash, the Presidential Guard erected roadblocks throughout Kigali.³ During the following days and nights, the *Interahamwe* and *Impuzamugambi* militia checked the identity cards of all who passed.⁴ Tutsi, Hutu moderates, members of opposition parties and human rights activists were brutally slaughtered. Within 72 hours, Rwanda's most prominent opposition figures had been assassinated and a self-proclaimed 'interim government' formed. The latter, comprised of Hutu extremists largely drawn from President Habyarimana's National Republican Movement for Development and Democracy (MRND) and the Hutu-extremist Coalition for the Defense of the Republic (CDR), directed a political campaign aimed at eliminating the Tutsi minority, which had been planned in advance.⁵ By June 1994, an estimated 500,000 to one million people had been massacred.

The traditional peacekeeping mandate given to UNAMIR under Chapter VI of the UN

² UN SC Res. 872 (1993).

³ Africa Watch, *Genocide in Rwanda April-May 1994*, May 1994.

⁴ *Interahamwe*, 'those who attack together' were linked to Habyarimana's MRND. *Impuzamugambi*, 'those with a single purpose', were attached to the extremist CDR. Both groups were comprised of young men trained by members of the presidential guard and the armed forces. See UN Special Rapporteur for Rwanda Mr. R. Degni-Ségui, *Report to the Economic and Social Council*, E/CN.4/1995/7, 28 June 1994.

⁵ See footnote 3.

Charter, proved useless during the genocide that began on 6 April.⁶ The mandate should have been adjusted to the new situation but the UN and its member states not only showed a strong reluctance to assume their responsibilities under the *1948 Convention on the Prevention and Punishment of the Crime of Genocide*, but after the killing of ten Belgian UNAMIR soldiers the Security Council even reduced the UNAMIR force from 1,700 to 270 troops by its Resolution 912 of 21 April, though thousands of dead bodies lay in the streets and the killing continued.

In Rwanda, extremist politicians used hate propaganda to incite the population to take part in the killing. State-run Radio Rwanda provided a platform for the 'interim government' and urged the elimination of anyone suspected of opposing the regime. Radio Télévision Libre des Mille Collines (RTLM), backed, among others, by President Habyarimana's widow and her two brothers, encouraged listeners to "fill the half-empty graves".⁷

On 29 April, the world witnessed the largest refugee exodus in history at the time when about 200.000 refugees crossed the border into Tanzania within 48 hours. International attention was then focused on the refugee crisis, rather than on the genocide which was meanwhile continuing in neighbouring Rwanda.

In mid-June 1994, after weeks of international inaction when the RPF was on the point of taking over Kigali, France suddenly announced its intention to send 2,500 troops to create a 'safe zone' in the south-west of Rwanda in order to protect civilians. On 22 June 1994, the Security Council adopted Resolution 929 authorizing this *Operation Turquoise*. The operation was portrayed as a strictly humanitarian mission for a limited period of two months to enable the newly expanded UNAMIR force to carry out its mandate.⁸

Many believed that the French initiative was politically motivated for the French Government had armed and trained the national military.⁹ Meanwhile allegations of continued gun-running to the region were reported. The French created camps for the hundreds of thousands of displaced, Hutu militia and military fleeing the RPF advance. Following the withdrawal of French troops in August, UNAMIR and soldiers of the Rwandan Patriotic Army (RPA) moved in to patrol the camps.¹⁰ Tensions in the region quickly mounted and UN officials began receiving daily reports from the region detailing a disturbing increase in the level of violence both in and outside the camps.

⁶ A traditional peacekeeping mandate is based on the principles of consent, neutrality and the non-use of armed force other than in self-defence. See Draft Formulas for Articles of agreed Guidelines for United Nations Peace-keeping Operations, *Working Document of the Working Group of the Special Committee on Peace-keeping Operations*, UN Doc. A/31/337 (1976) Appendix I.

⁷ Oxfam, *Rwanda: An Agenda for International Action*, 1994.

⁸ The mandate of UNAMIR was expanded by Security Council Resolution 918 of 17 May 1994 and also included an expansion of the force level to 5,500 troops. However, by mid-August only a 1,257 troops were on the ground.

⁹ Africa Watch, *Arming Rwanda: The Arms Trade and Human Rights Abuses in the Rwandan War*, January 1994.

¹⁰ The Rwandan Patriotic Army (RPA) is Rwanda's new national army which until July 1994 was the armed wing of the Rwandan Patriotic Front (RPF).

On 4 July 1994, as the RPF took control of Kigali, defeated government officials used radio broadcasts to invoke hysteria about the likely retribution for the crimes committed and incited the population to flee, thus prompting the fastest refugee exodus in recent history. Among the refugee population were many of those responsible for the genocide. In less than a week, more than 700,000 people crossed the border into Zaire, creating a humanitarian disaster on an unprecedented scale. An estimated 20,000 Hutu soldiers and some 50,000 militia joined the movement convincing the population that they would be killed if they remained in Rwanda.

International aid workers were ill-equipped to confront a crisis of such proportions. Cholera and dysentery and dehydration due to lack of water quickly swept through the crowded camps and within one month, an estimated 50,000 refugees died.

2. MSF Concerns up to November 1994 regarding the Rwandan Refugee Camps

In November 1994, MSF published its report *Breaking the Cycle*. In this report, MSF compiled evidence of its concerns that: the situation in the refugee camps could not be sustained and that for MSF to continue to give humanitarian relief in these circumstances presented a moral dilemma; refugees alleged of having participated in the genocide walk around freely in the camps. MSF reiterated that there was also growing evidence that the refugee camps were becoming training bases for members of the militia and the former Rwandan armed forces and that military training occurred openly.¹¹

Consequently, MSF called on the relevant UN bodies and individual member states to take all necessary measures to ensure: that refugees receive adequate protection and do not have to live in fear for their lives, to which end an international police force and human rights monitors should be dispatched to the camps. Further MSF recommended that refugee registration should take place as soon as possible; that the distribution of food should not be controlled by camp leaders and that refugees be guaranteed equal access to humanitarian aid; that the militia and military be separated from the refugees. Moreover all members of the military and militia should be disarmed; all those suspected of genocide who currently walk freely in the camps should be brought to justice, either by states on whose territory these killers reside or by the then newly established International Tribunal.

At that time, many other humanitarian relief agencies, outraged that they were becoming unwilling accomplices to the perpetrators of the genocide, threatened to pull out.¹²

¹¹ MSF report *Breaking the Cycle. MSF calls for action in the Rwandan refugee camps in Tanzania and Zaire*, 10 November 1994.

¹² This was voiced in the joint NGO statement *Relief Agencies Demand Action* of 3 November 1994.

3. MSF Programmes in Rwanda, Zaire, Tanzania and Burundi

MSF worked in Rwanda before, during and after the genocide and also runs programmes in the refugee camps in Zaire, Tanzania and Burundi.

Rwanda

In Rwanda, five MSF sections (MSF-Belgium, -France, -Holland, -Spain and -Switzerland) implement extensive health programmes throughout the country, with a total of around 1,800 national staff and 100 expatriates. Teams are working in the prefectures of Kigali, Gisenyi, Ruhengeri, Kibuye, Gitarama, Gikongoro, Butare, Cyangugu, Kibungo and Byumba. Both local and displaced populations benefit from these programmes. MSF provides aid to hospitals, health centers and dispensaries, and is involved in general and preventive medicine, paediatrics, laboratory work and the supply of drugs. Projects include surgical activities, nutrition programmes, mental health programmes, programmes to integrate unaccompanied minors into the community and support for water supply services. In hospitals in Kigali and Gitarama, MSF also supports referral units for prisoners.

Zaire

In the eastern Zairian province Kivu, MSF works in the Rwandan refugee camps in and around Goma and in the partly Rwandan, partly Burundian refugee camps in Uvira. In Goma, two MSF sections are presently working with 2,100 national staff and 25 expatriates. MSF provides aid to an estimated 300,000 refugees in three field hospitals as well as in many health posts and dispensaries. The MSF activities also include water and sanitation and mental health care. In Uvira, MSF is undertaking medical, including 4 hospitals, and water and sanitation programmes for approximately 55,000 refugees.

Tanzania

MSF runs medical programmes for 220,230 refugees in the Biharamulo, Karagwe and Ngara districts. MSF has eight health clinics, five field hospitals which are staffed with 41 expatriate staff, 130 local staff and 725 volunteer refugees. MSF also has mental health programmes in all four camps for traumatized refugees. The general medical work includes surgical activities, as well as therapeutic feeding.

Burundi

In Burundi MSF has four field hospitals providing medical aid to 100,000 refugees in four refugee camps in Ngozi province. Further MSF runs medical services in Kirundo, Karuzi, Ruygy, and Ngozi province an area which covers about one million Burundians. MSF has irregular access to the Cibitoke province. In the capital Bujumbura, MSF supports several health centers, such as a post for small medical interventions in the Kamenge *quartier* of the capital. Moreover, MSF has made stand-by arrangements in case of a large-scale eruption of the ongoing violence.

II. VIRTUAL STANDSTILL ON REPATRIATION AND CONTINUED IMPUNITY: FACTORS *OUTSIDE* RWANDA

In the autumn of 1994, refugees were regularly subjected to violence and sometimes killed publicly because of their wish to return to Rwanda. Such incidents, together with meetings led by camp leaders to urge the refugees not to return effectively acted to hold the population hostage. Intent on disproving allegations that this was the case, the leaders neither openly discouraged nor resorted to physical violence themselves. Their use of speeches inciting ethnic hatred and extremist propaganda was sufficiently successful and, in fact, they could even tell the refugees that they were free to return. This new policy fit perfectly into the designed improved image of the camp leadership.

1. The Rwandan Refugees in Goma, Zaire

During the first three months of 1995, there was a small, but constant flow of refugees repatriating to Rwanda in convoys organized by UNHCR. However, since April, repatriation has come to a virtual standstill. Intent on disproving allegations that they were holding the population hostage, the Hutu leaders in the camps officially told the refugees that they were free to return. However, repatriation rapidly declined as refugees became more convinced that it was too dangerous to go back to Rwanda, a conviction that was reinforced by the anti-RPA propaganda and hate campaign carried out by camp leaders and the deteriorating situation in Rwanda. Early July, repatriation has started again, amounting to about 50 to 100 refugees per week.¹³

1.1. The Improved Public Image of the Camp Leadership

In the immediate aftermath of the cholera and dysentery epidemics, lawlessness prevailed. Assassinations of supposed RPF spies were reported and allegations of open military training were common. Within days of crossing the border, the refugees began to organize themselves according to the same state administrative structures which had existed in Rwanda.¹⁴ In the chaos brought about by the sheer numbers, UNHCR and relief agencies were forced to rely on those who presented themselves as leaders among a disoriented and severely traumatized population. Initially, many who had manipulated the population to commit genocide in Rwanda were recognized in the camps by UNHCR and NGOs as legitimate, or at least desperately needed, representatives of the massive refugee population.

The Power Structures

On 3 November 1994, 16 international NGOs, including MSF, issued a joint press release stating

¹³ Reig Miller, 'Rwandan Refugees', *Associated Press*, 7 July 1995.

¹⁴ i.e. *prefectures* (departments) comprised of *communes* (communes), *secteurs* (sectors), and *cellules* (neighbourhoods), each with its own representative.

that working conditions in the camps had become unacceptably dangerous and they would be forced to withdraw unless there was immediate action to improve security. The statement declared that refugees wishing to return home were virtually held hostage by the camp leaders. The NGOs demanded that those responsible for inciting violence and disrupting the delivery of humanitarian aid should be separated from the other refugees and that all weapons should be removed from the camps. Furthermore, adequate protection for refugees needed to be guaranteed in order for them to feel free to return home or remain in the camp without fearing for their lives.

Four days later, MSF-France announced its decision to pull out of the camps in Zaire and Tanzania, stating that the continued diversion of humanitarian aid by the same leaders who orchestrated the genocide, the lack of effective international action regarding impunity, the fact that the refugee population was being held hostage, presented a situation contradictory with the principles of humanitarian assistance. Later that month, Care-Canada pulled out of Katale camp following death threats. MSF-Belgium and -Holland decided to continue working in the camps while at the same time continuously and publicly advocating for an end to impunity and improvements in the security situation for the refugees.

After the criticism of the international aid community the self-proclaimed government-in-exile instituted a series of 'reforms' in order to ensure continued humanitarian assistance and to improve the public image of the camps by targeting their 'constituency', advance 'democracy', and promote 'legitimate' leaders to pursue the possibility of political negotiations with the government in Kigali.

The Commission Sociale was formed, comprising 15 principal members, the majority of whom identify themselves as either former government ministers or pro-MRND politicians, to act as an informal link between the self-proclaimed government-in-exile, international bodies, and the refugees in North Kivu.¹⁵ The Commission Sociale played an ill-defined but critical role in carrying out a concerted campaign to revamp the public image of the camps. During the months that followed, elections were held, camp security structures were re-organized, and countless civic organizations were founded.

However, the new strategy of the camp leaders also appeared to be "aimed at causing unrest inside Rwanda to undermine the new government and convince refugees that it was too dangerous to return".¹⁶

MSF therefore maintains that these changes are cosmetic and that little has in fact changed since November 1994. On the surface, the climate in the camps has improved. Aid workers are no longer threatened, soldiers are rarely seen, and militia training no longer takes place in public. Many members of the military have left the camps and those who remain wear civilian clothes.

¹⁵ The more than 700,000 refugees in North Kivu represent the majority of the refugee population.

¹⁶ Terry Leonard, 'An Uneasy Calm in Zaire's Camps', *Associated Press*, 23 January 1995.

Following the failure of UN Secretary-General Boutros Boutros Ghali's proposal for an international peacekeeping force, the deployment of 1,500 Zairian troops to the camps has improved the security of refugees on UNHCR repatriation convoys and of non-governmental organizations (NGOs) operating in the camps. While the camps now operate smoothly and relative calm prevails, field officials of NGOs and of the UN High Commissioner for Refugees (UNHCR) may be lulled into a false sense of complacency.

Refugee registration process was poorly planned and fraught with fraud. MSF-Belgium's efforts to control systematic cheating and intimidation by militia members in Kibumba led to expatriate staff being threatened. Declaring this militia control of the camp unacceptable, MSF-Belgium pulled out of Kibumba on 8 February 1995. In response to the high level of fraud, UNHCR spent two months conducting registration card verification before finally arriving at more or less accurate population figures. In the Tanzanian refugee camp Ngara, UNHCR nullified the registration after wide spread fraud. The registration will be re-done in July/August 1995.

Food Distribution

Commonly referred to as 'camp leaders', the representatives of the refugees were responsible for food distribution to their segment of the population.¹⁷ They exerted blatant control over the camps in the form of routine violence, threats, and massive diversion of food aid.

Food is now distributed directly to families or *cellules* (groups) in most camps. The level of diversion has decreased and the control of the camp leaders over humanitarian aid has largely diminished. However, the delay in registration resulted in the diversion of thousands of tons of food aid.¹⁸ Much of it was alleged to have been stockpiled for former Rwandan soldiers. Food basket monitors now oversee the equitable distribution of aid. Security incidents no longer surround the distribution of food, except when there is little food to distribute.

In February 1995, the World Food Program (WFP) found itself falling short of funds to feed the three million refugees, returnees, and displaced in the Great Lakes region. Rations were reduced to as little as 503 kcal per day, resulting in daily scenes of chaos, protests and threats at the distribution sites.¹⁹ On 24 March 1995, MSF issued a public statement together with 32 other

¹⁷ Contrary to countless press reports, camp leaders did not correspond to former Rwandan government authorities. Today the term 'leader' is widely used to indicate not only administrative authorities but any refugee in a position of power, from a security official to the president of a non-profit-making organization.

¹⁸ In the absence of registration, Zairian Caritas, responsible for food distribution in Kituku, divided WFP-supplied food for an estimated 15,000 people into rations for 23,000, insisting that UNHCR population estimates were inaccurate. Rations for 8,000 people routinely went unaccounted for and refugees received only a small fraction of their rations. Thousands of tons of food had been distributed to the 'leaders' of these fictional populations for more than six months.

¹⁹ Humanitarian organizations consider 2,100 kcal to be the bare minimum for survival. Week of 27 February-3 March. Source: International Federation of the Red Cross.

humanitarian organizations in the region, urging the international community to act swiftly to end the food shortage. The appeal emphasized the fact that the food shortage threatened regional stability. MSF maintains that withholding food would not, as some donor countries apparently believed, encourage repatriation. However, MSF also believes it is very serious that the international community still feeds soldiers and militia who are alleged to have been implicated in the genocide.

Humanitarian aid should not be used to bring about political solutions. A month later, WFP reached 70% of the \$385 million needed for 1995. Since then, rations have steadily increased.²⁰

1.2. Elections and the Search for Legitimate Leaders

In spite of 'democratic reforms' former politicians implicated in the genocide continue to dominate the political life of the camps. The fact that many refugees say they were never told of any elections further calls into question the nature of these 'reforms'.

It is sure that some elections took place in many of the camps in Eastern Zaire in December 1994 and the early months of 1995. The Commission Sociale, eager to promote the appearance of grassroots democracy, said that the refugees called for elections themselves. These provided an opportunity to elect legitimate representatives among the refugee population while at the same time replacing leaders who may not have conformed to the government-in exile's larger political objectives. However, elections were not held in every prefecture and the replacement of camp leaders was very selective. In practice, the elections appear to have been orchestrated by former government officials.

In Katala camp, for example, the former mayor of Greater Kigali,²¹ best known for his statement in an interview with the *New York Times* that the killings in Rwanda did not constitute genocide because some Tutsi had survived, presided over mid-January elections in Ruhengeri prefecture part of the camp.²² Accompanied by the former mayor of Ruhengeri, he conducted a campaign to influence the refugees which of the two candidates to vote for (*sensibilisation de la population*) before, during, and after the elections. Later, the two candidates themselves spoke only briefly. Refugees maintained that they were free to vote for the candidate of their choice.²³

1.3. Security Structures

In December 1994, as part of its public image campaign, the Commission Sociale restructured the

²⁰ Despite severely reduced rations, malnutrition in the camps remains lower than in the surrounding regions. Average global malnutrition in the camps in Goma was 2.7% in April 1995. As in most refugee camps, refugees routinely sell their rations on the bustling camp markets in order to obtain money to buy other goods.

²¹ Currently a member of the Commission Sociale.

²² Jane Perlez, 'A Hutu Justifies Genocide', *New York Times*, 13 August 1994.

²³ Votes were counted by representatives from other prefectures. They counted the number of refugees who lined up behind each candidate. The incumbent, largely supported by his commune of origin and extended family, was defeated 2 to 1.

camps into *quartiers* (districts), *sous-quartiers* (sub-districts), *cellules* (neighbourhoods) and *nyumba kumi* (groups of ten houses), each with their own representative, allegedly duly elected. The goal was twofold: to ensure that the refugees could properly defend themselves against 'RPA infiltrators';²⁴ and to assert control over a security situation which threatened continued humanitarian assistance. A dual power structure was imposed so that camp leaders now have responsibility according both to where they currently live in the camps and to their commune of origin in Rwanda. Neighbourhood representatives, in charge of security, serve to reinforce the power of the camp president. At the same time they rival the power of the administrative representatives.

This highly centralized security structure is identical to that which was perfected in Rwanda prior to the genocide. According to African Rights, a September 1991 Ministry of Defence memorandum entitled *Auto-défense de la population* envisaged at least one armed man for every ten households. This 'home guard' project foreshadowed the creation of the militia throughout the country under the control of senior military officials. During the genocide, *Interahamwe* knew exactly who lived in which house. They were therefore able to carry out the killings literally door by door.²⁵ The localized command structure in the camps is based on this same model.

1.4. A Civil Society

The final step towards improving the public image of the camps and pushing for political negotiations was the creation of a civil society (as opposed to overt military control) and a new political party. The Commission Sociale was instrumental in restructuring the camps and supporting the expansion of the camp leadership. It has now given way to the Société Civile which purports to represent a broad spectrum of society. The Commission Sociale is a member of the Société Civile and now distances itself from the self-proclaimed government-in-exile. The latter is equally ambiguous about its links with former Rwandan Government authorities.

Founded on 14 January 1995, six months after the refugees arrived in Goma, the Société Civile currently boasts 92 affiliated non-profit-making organizations such as: l'Association des journalistes rwandais en exil, le Cercle des intellectuels, l'Association pour la promotion féminine et la réhabilitation de la famille rwandaise, and l'Association des juristes pour les droits de l'homme. Most were founded by members of Rwanda's well-educated elite, the MRND, and of the extremist media that functioned in Rwanda before the genocide. Some receive substantial funding from abroad. The primary goal of the Société Civile is to act as the representative of the refugee population in any negotiations for a political settlement with the government in Kigali.

On 3 April 1995, a group of refugees in Mugunga formed the Rally for Democracy and the

²⁴ According to the President of the *Commission Sociale*, in the beginning 'bandits' proclaimed themselves responsible for security in many camps, which he said explained why violence and threats continued at the time and why order needed to be imposed on the camps.

²⁵ African Rights, *Rwanda: Death, Despair, and Defiance*, September 1994.

Return to Rwanda (RDR), a new political party which also denies any formal link with the self-proclaimed government-in-exile. Like the Société Civile, the leaders of the RDR portray themselves as moderates. Nevertheless, they have emerged from the same ideological background as the extremists, they justify the genocide and paint themselves as victims. They circulate a list of all human rights abuses in Rwanda since October 1990 when the RPF first invaded the country and claim to give a "truthful accounting of the facts" surrounding the death of President Habyarimana; this is followed by a long list of what they consider to be prerequisites for peace. The RDR states that if they fail to attain their political objectives, they will resort to "military action as a final option".²⁶ On 4 April 1995, 13 senior commanders of the former Rwandan Armed Forces (ex-FAR) issued a public statement pledging their support for the RDR. The Zairian authorities have forbidden the RDR to hold public demonstrations and activities. As a result, the party carries out its activities clandestine.

While some believe that these recent political developments herald the dawning of a new era, the host of new leaders appears to have emerged from the same Hutu extremist ideological position. The expansion of the camp leadership, the creation of the Société Civile and a new 'independent' political party have not broadened the political spectrum. Indeed, they have served to further the monopoly of extremism. In the highly polarized political climate of the camps, there is virtually no room for moderate voices to be heard.

2. Militarization, Destabilization, and Camp Security in Zaire

2.1. Allegations of Military Training and Arms Shipments

Following the mass exodus into Zaire, the ousted Rwandan Government, armed forces and militia have started to regroup and rebuild their military infrastructure.

According to the *1951 Convention Relating to the Status of Refugees*, 'persons with respect to whom there are serious reasons for considering that: he has committed a [...] war crime, or a crime against humanity', may not benefit of the status of refugee. In practice, however, those suspected of having participated in the genocide enjoy protection as refugees and benefit from relief assistance supplied by the international community.

Among the first cosmetic changes instituted to guarantee continued humanitarian aid to the camps was the sudden apparent departure of the military; they are simply no longer to be seen in the camps. Late last year, soldiers were apparently ordered to shed their uniforms and, at the same time, thousands of members of the ex-FAR moved south, out of the camps, towards Bukavu and

²⁶ Buchizya Mseteka, 'Rwandan refugee party pushes for talks with Kigali', *Reuters*, 19 April 1995.

Burundi.²⁷

After a shooting incident in Katale camp on 25 November 1994, in which a Zairian soldier was killed, the local authorities ordered all refugees to move into the officially recognized camps.²⁸ It has been reported that during the massive population shift which ensued a military movement south took place towards Bukavu. During the early hours of the morning throughout the first week of December, eye-witnesses saw large groups of young men moving south from Mugunga, at the time a notorious military camp. The following week, military vehicles and men in combat boots and fatigues were almost entirely gone. However, senior military commanders continue to reside just down the road from Mugunga in État-Major, an independent military camp. According to UNHCR officials, they have regular contact with ex-FAR officers who have remained behind "to safeguard the camps against RPA infiltrators".

Many NGOs operating in the camps regard the departure of the military as a vast improvement. In point of fact, it is indicative the changes which have taken place are only cosmetic.

While MSF staff since December 1994 have not themselves witnessed increased militarization, training or arms shipments into eastern Zaire, these have been widely reported in the international press.²⁹ In order not to jeopardize ongoing humanitarian aid, large-scale arms shipments are almost certainly not destined directly for the refugee camps themselves. Militia training does not take place in full view of aid workers.

The rearmament and increased militarization of the former Rwandan Government and the ex-FAR have been thoroughly documented by the Human Rights Watch Arms Project, Amnesty International and by a United Kingdom television programme.³⁰ Amnesty International reports that in early April 1995, Zairian soldiers working at Goma airport in eastern Zaire stated that arms shipments flown in to Goma were intended for the Contingent Zaïrois pour la Sécurité des Camps (CZSC). However, according to the Director of the Civilian Security Liaison Group (the Liaison Group) and CZSC soldiers, the CZSC had not received any arms shipments and the weapons are widely suspected to have been destined for the ex-FAR.³¹ The UK television programme documents a series of arms flights to Goma for the ex-FAR, usually landing on Tuesday nights around 11.00 pm. One of these deliveries was apparently received by the prime minister of the self-proclaimed government-in-exile, Jean Kambanda, and a former leader of the *Interahamwe*, Jean-Baptiste Gatete.

²⁷ *The Guardian*, 25 December 1994.

²⁸ According to UNHCR, over 100,000 refugees entered the camps during the last week of November and early December, virtually creating second crisis. As a result, NGOs not only decided to remain in the camps but to expand their activities as well.

²⁹ BBC, *Newsnight*, 18 February 1995, *Africa Confidential*, No. 228, 20 February 1995 and Gerrard Raven, 'Mystery Planes Arming Rwanda Exiles', *Reuters*, 27 March 1995.

³⁰ The Human Rights Watch Arms Project, *Rwanda/Zaire: Rearming with Impunity*, May 1995, vol.7, no.4, Amnesty International, *Rwanda: Arming the Perpetrators of the Genocide*, AI Index: AFR 02/14/95, 13 June 1995 and Carlton Television, *The Cook Report*, United Kingdom, 13 June 1995.

³¹ 27 international staff of the CSLG monitor the CZSC.

According to the Human Rights Watch Arms Project's report, Zaire has not only assisted the ex-FAR in obtaining weapons, but also permits top ex-FAR commanders 'in exile' to reside under the leadership of Major General Augustin Bizimungu in an independent military camp not far from the Mugunga and Lac Vert refugee camps outside Goma. During their mission to the region in March 1995 Human Rights Watch witnessed military training by the ex-FAR and militia in Bilongue camp near Bukavu and observed a building that contained an arsenal of attack weapons in Panzi camp.

2.2. Contingent Zaïrois pour la Sécurité des Camps

In November 1994, MSF called for an international police force to impose law and order in the camps and guarantee the protection of refugees. Four months later, UN Secretary-General Boutros Boutros Ghali failed to muster the 5,000 international peace-keepers he requested. Among the 60 countries approached to contribute troops only Bangladesh made an offer. UNHCR subsequently signed a \$13 million dollar agreement with the Zairian Government for 1,500 Zairian soldiers to be deployed in the camps under the joint control of the Zairian Government and a team of international civilian observers of the Liaison Group.³²

On 11 February, the first of 1,000 CZSC troops arrived in Goma. An additional 500 were later deployed in Bukavu.³³ Their mandate is to maintain law and order in the camps, to prevent the intimidation of refugees willing to return and escort convoys of returnees and guarantee the security UN and NGO international staff working in the camps.

The Liaison Group monitors the performance of the CZSC and acts as an intermediary between the CSZC, the staff of UNHCR and NGOs and the refugee leaders.³⁴ They can also investigate incidents involving breaches of security, and reports of episodes of poor discipline on the part of individual CZSC soldiers.³⁵

The CZSC has proved effective at establishing some level of security and protection of the refugees in the camps and guaranteeing the security of repatriation convoys and NGOs. Many reports and complaints from the refugees about the misbehaviour of individual troops, especially after dusk, reach the Liaison Group. The Liaison Group and UNHCR have acknowledged that they have to improve their links and

³² This renewable six-month contract is the first of its kind in UNHCR history. The UN pays clothes and provides communications equipment to the soldiers. They do not supply with arms nor can they command the Zairian troops.

³³ At least 80% of the CZSC is comprised of soldiers from the Division Spéciale Présidentielle (DSP), President Mobutu's elite security force.

Presently, the number of troops deployed is: 900 troops in and around Goma, 300 in Bukavu and 150 in Uvira.

³⁴ Terms of Reference of the Civilian Security Liaison Group, Goma 6 March 1995.

³⁵ On 22 April, a group of CZSC soldiers detained a Zairian woman of Tutsi origin in a village near Kituku camp. They drove her to the camp for questioning concerning the Kituku camp leaders' allegations that her father was an RPF spy. Following the Liaison Group's investigation into the matter, several of the soldiers involved were sent back to Kinshasa.

communication lines with the Contingent at night time. However, not all of the reports and complaints coming from the refugees can be regarded reliable evidence of misbehaviour of the CZSC's troops, as the refugees may view the Contingent as a threat to their power.

The Contingent failed to conduct thorough investigations into some serious security incidents. For example, following the 25 March assassination of a Rwandan guard in a UNHCR tent in Kibumba by unknown assailants, their investigation failed to produce a single suspect. Although the CZSC has arrested some refugees accused of criminal activity, corruption among local Zairian officials renders legal proceedings virtually impossible. Refugees who are arrested are alleged routinely to bribe their way out of prison; few remain in detention for more than 48 hours.

Due the failure of the international community to support the Secretary-General's call for an international peace-keeping force, the CZSC has been deployed to fulfil a policing role in the camps, in order to ensure the protection of the refugees. Given the cosmetic changes and reduction of incidents of intimidation in the camps around Goma, the CZSC was able to fulfil this role. However, the CZSC is not mandated to arrest and detain persons suspected of having been involved in the genocide, nor is it mandated to stop the flow of arms and prevent further militarization. The Contingent does also not have the capability to control the border in order to halt border incursions by the ex-FAR and militia.

2.3. Incursions from Kibumba Refugee Camp

The CZSC have stated to MSF in a meeting in March 1995 that nightly incursions into Rwanda take place from Kibumba, located 1.5 km from the border. Furthermore they state that militia training takes place just outside the camp. According to UNHCR and UNAMIR in Gisenyi there has been a marked increase in incursions into Rwanda from the camps since February. These began with cattle rustling, but militia or ex-FAR in the camps are now conducting a concerted campaign of destabilization aimed at individuals. The CZSC's failure to take any action to stop militia activity and cross-border incursions implies their support for illegal activity and further violence in Rwanda.

One of the first signs of a destabilization campaign in Gisenyi, just on the other side of the border from Kibumba, was the assassination of Dr. Anatole, a moderate Hutu and a prominent figure in Gisenyi who had returned from the camps in Zaire although he had been warned that he and his family would be killed by the *Interahamwe* if he did so. He was shot dead in his home on 23 February. One of his children died in the attack; his wife and another child were severely injured.

In the weeks prior to the anniversary of the genocide, the CZSC repeatedly warned refugee leaders against any paramilitary action. At the 31 March camp leaders' meeting in Kibumba, the

Captain of the CZSC stated that they were aware of rumours of a possible attack on Rwanda on 6 April: "We know you are training for military action on the other side on the 6th or the 7th. We are warning you. We know the names and addresses of former soldiers and their commanders in the camp. We routinely close our eyes to the nightly coming and going across the border. We know you go to '*chercher vos pommes de terre*' (gather potatoes) on the other side. But be warned, any such movement on 6 or 7 April will have serious consequences." In response to the Captain's warning, the president of the camp said that refugee businessmen were organizing themselves to find means to obtain '*pommes de terre*' elsewhere.

On 13 March, a refugee crossed the border from Gisenyi into Munigi, located between Kibumba camp and the town of Goma carrying a gun and covered in blood. He was taken to Mugunga hospital. There he stated that he was the leader of a group of *Interahamwe* from Kibumba who had crossed the border the night before. Their mission was first, to liberate several Rwandan refugees arrested in Gisenyi for stealing cattle and second, to sabotage undisclosed targets in the region. After allegedly freeing 'their brothers' from Gisenyi prison by force, guards shot the leader twice in the leg. While the others fled into Rwanda the leader escaped back across the border to Zaire.³⁶

According to medical staff working in the International Federation of the Red Cross hospital in Kibumba, they regularly treat young men with gunshot wounds.

2.4. Continued Vigilante Justice

In *Breaking the Cycle*, MSF stated that: "maintaining law and order should under no circumstances be the responsibility of individual refugees selected by the leaders, many of whom are themselves suspected of having been involved in the genocide." Although the refugees say that neighbourhood security officials have been elected, they are answerable only to the president of the camp who is the ultimate arbitrator of cases involving alleged RPF spies and other breaches of security. In Kahindo camp, the responsibility of security is taken out of the hands of the camp president if necessary by la commission sécurité and its boss. However, they have only symbolic power. MSF remains concerned that despite the presence of the CZSC to establish law and order in the camps, refugees continue to take these matters into their own hands.

The recent incidents of violence in the camps have little to do with repatriation. They are linked to a policy of regional destabilization. Just as refugees launch nightly incursions across the border into Rwanda, the refugees themselves are convinced that there has been a parallel increase in RPF infiltration into the camps. The result has been a slight increase in violent attacks against alleged infiltrators, rising paranoia, and stepped-up neighbourhood security patrols. Roadblocks, manned by

³⁶ *La Ligue des Droits de l'Homme des Grands Lacs, 1995.*

gangs of young men, are erected in Mugunga at night.³⁷ In all the camps, refugee security patrols impose an eight or nine pm curfew.

According to UNHCR, the first two months of 1995 were extremely quiet. In March there was an increase in so-called *Inyenzi* incidents (literally *Inyenzi* means 'cockroaches', during the genocide the word has also been used figuratively to refer to the Tutsi) in which individuals were brutally attacked and possibly killed by mobs.

On 15 March a group of seven to eight refugees from Mugunga camp were escorting a Rwandan refugee accused of being an *Inyenzi* down the road south of the camp when UNHCR staff and Zairian gendarmes arrived on the scene. Upon seeing the two vehicles, the men violently attacked and strangled the refugee, apparently in an attempt to kill him before the vehicles overtook them.

On another occasion four bodies were found stoned, beaten or tortured to death in the vicinity of Mugunga/Lac Vert camps following the weekend of 18-19 March 1995. The deliberate brutality and signs of vigilante justice in each of the cases would suggest they had been accused of being *Inyenzi*.

On 20 March a UNHCR Field Officer driving by Lac Vert noticed a large crowd of people watching a man lying on the ground. The mob had accused him of being an *Inyenzi* and his head had been split open. UNHCR immediately evacuated the victim to Goma hospital.

While threats and brutality are commonly used against anyone suspected of sympathy for the RPF, the camp leaders no longer conduct an ongoing campaign of violence against refugees and NGOs. One recent exception, however, was during the relocation of Kituku camp. While some believed that in smaller camps the leaders would have less power over the refugee population, this proved to be a mistake. The leaders, some of whom have been identified by other refugees as well-known *Interahamwe*, wielded considerably more power over the small camp population of 15,000 than their counterparts in the larger camps. Intent on protecting their own interests, they refused to relocate and prevented the other refugees from leaving.

MSF was targeted for implementing UNHCR's decision to gradually reduce services leading up to the closure of the camp. On 24 April, amidst increasing tensions, two expatriate staff were evacuated under armed guard following death threats. MSF closed down all health facilities the next morning.

Although the majority of the population appeared eager to move to a new, more spacious camp, the camp leaders briefly succeeded in creating a climate in which it was impossible for

³⁷ From 16-18 March a group of American evangelists broadcasting Billy Graham live, via satellite, into Mugunga at night, were stopped and interrogated at several road blocks as they left the camp around 10 pm. According to their testimony, the road blocks were manned by groups of roughly 20 young men wearing hoods and sports clothes.

UNHCR to conduct an information campaign about the move due to physical intimidation. However, roughly three weeks later, with all services discontinued and the leaders discredited, UNHCR finally closed the camp.

3. Refugee Leaders continue to retain Control over the Camps in Zaire

3.1. Information

The leaders' control over information is, in large part, the key to their control over the population. The former government authorities incited a population to commit genocide through the use of extremist propaganda. Due to continued impunity, these same officials continue to manipulate the refugee population by controlling the flow of information and political discourse in the camps. They talk tirelessly about the victimization of the Hutu people.

A number of extremist publications devoted to fuelling ethnic hatred and silencing moderate voices regularly circulate in the camps. They portray the Hutu people as victims and attempt to re-write history. Revisionism and victimization are central to the camp leader's extremist ideology. *What Has Not Been Said About the Massacres in Rwanda*, published by The International Solidarity for The Rwandan Refugees refers to the Hutu population in exile as "victims of a well-hatched plot, planned long before, [and] that it had killed only because it was attacked."³⁸ *L'Autre face du génocide*, published by the Association Justice et Paix pour la Réconciliation au Rwanda in collaboration with the Société Civile, states that no evidence incriminating the self-proclaimed government-in-exile has come to light and that it was the RPF who committed the genocide of the Hutu. "The elimination of the Hutu majority was aimed at decimating the opposition and attaining the numerical balance [they had] sought for so long."³⁹

Extremist newspapers such as *Amizero*, and numerous political tracts, blame every recent assassination in Rwanda on Tutsi and repeat that to return to Rwanda is to go to your grave. One tract, entitled *L'Oeil des réfugiés* lyrically describes how whether you're young or old, if you are Hutu, you're killed, if you go back, its suicide. The songs schoolchildren sometimes sing are, according to refugees, traditional hunting songs - songs about hunting down Tutsi.

As voluntary repatriation resumed in December, MSF repeatedly urged UNHCR to provide factual information on the repatriation process and the current situation in Rwanda in order to counteract extremist propaganda in the camps. UNHCR launched an information campaign, broadcast over Radio Agatashya in early March 1995. It was suspended the following month after one of the programme's Rwandan editors was detained for several days in Kigali. UNHCR has not resumed broadcasts.

³⁸ International Solidarity for the Rwandan Refugees, *What Has Not Been Said About the Massacres in Rwanda*, October 1994.

³⁹ Association Justice et Paix Pour La Réconciliation au Rwanda, *Rwanda: L'autre Face du Génocide*, February 1995.

3.2. Repatriation

During the first three months of 1995, there was a small but constant flow of refugees repatriating to Rwanda. From December 1994 to March 1995, 12,775 refugees returned to Rwanda in UNHCR convoys.⁴⁰ However, since April 1995, repatriation has come to a virtual standstill due to the deteriorating situation inside Rwanda.

When UNHCR resumed voluntary repatriation in late December, many feared that the leaders and militia would launch a campaign of violence to prevent refugees from returning home. Although officially the camp leaders told the refugees the refugees were free to return and even informed the population when the next convoy was leaving. Intent on disproving allegations that they held the population hostage, camp leaders neither openly discouraged repatriation nor did they resort to physical intimidation. Their use of speeches inciting hatred and propaganda was so complete that they did not need to.⁴¹ Just as with elections, based on what they had been told, their choice for the refugees was clear: they chose to stay. Many refugees maintain that they fled Rwanda convinced that the RPF was going to kill them all. They say nothing will make them believe otherwise unless they go to Rwanda and see for themselves.⁴²

Furthermore, while members of the militia were not conducting a concerted campaign of violence in the camps, by February, they were conducting a campaign of destabilization in Rwanda. The Commander-in-Chief of the ex-FAR openly stated at the time that repatriation would change nothing. "Refugees wishing to return to Rwanda would still support us, only on the other side," he said. According to UNHCR and UNAMIR officials, prolonged guerilla warfare cannot be successful without the support of a local population to shelter militia and assist incursions. Most returnees were women, children, and elderly men returned to Rwanda via convoy. Young men from the camps cross the border at night.

In the period between March and April 1995, the deteriorating security situation, increase in arbitrary arrests and reprisal killings in Rwanda have served to further the cycle of extremism. This climate of fear among the refugees holds them from going back and fits perfectly into the pattern of control the leaders exercise over the refugees. By April, the continuing destabilization in Rwanda led

⁴⁰ Since July 1994, 234,649 refugees have spontaneously returned, crossing the border by foot. Source: UNHCR statistics on repatriation from Goma area as of 12/5/95.

⁴¹ During the past five months, there have only been two major security incidents surrounding the departure of a convoy. Both took place in Kibumba in January. On two separate occasions, a group of 18-20 families were robbed of all their belongings and thereby prevented from leaving. Although The International Office of Migration (IOM) reported individual incidents of intimidation, they maintained that these were reactionary rather than organized. IOM regularly went into the camps to pick up refugees who had signed up to repatriate but feared for their safety.

⁴² Returnees in Gisenye have told MSF that they came home because they had received word from family or friends that it was safe to return. Others said they had crossed the border by foot to see if their house was occupied before going back to the camp to gather their belongings to return to Rwanda via UNHCR convoy.

to roughly 500 new refugees arriving every week in the camps in North Kivu.⁴³ This recent influx has reinforced the refugees' fears of returning home and served to further increase the power of the camp leaders. Repatriation rapidly declined as refugees became more convinced it was too dangerous to return. The influx also helped to fuel further paranoia about infiltration by RPF sympathizers as the refugees regard those who are entering Zaire at this point as potential RPF sympathizers. Amidst the increasing extremism and highly polarized political climate in the camps, each refugee is considered to be either for or against the RPF. According to one returnee in Gisenyi, anyone planning to return to Rwanda via a convoy "does not publicize this" for fear of being seen as RPF sympathizers. Voices of reason remain silent. The control exerted by the camp leaders is not only due to the power of extremism but to the inability of moderate voices to be heard.

On 18 April 1995, RPA started to forcibly close the camps for the internally displaced (displaced) in South Western Rwanda, killing more internally displaced than it was possible to count. In the refugee camps, protests were held against the US Government because it did not immediately suspend aid to Kigali. Although they have remained calm, the massacre has had an enormous political impact on the camps. Camp leaders, previously intent on pushing for negotiations, have taken a more extreme position as a result. Given the current climate both in the camps and in Rwanda, UNHCR feared that any refugee who wanted to return would meet with strong opposition from other refugees. On 21 April, UNHCR suspended repatriation until further notice. Increased insecurity in Rwanda is only one of a myriad of reasons why the vast majority of refugees are afraid to return home.

4. Parallels in Tanzania

On 29 April 1994, about 200,000 Rwandan refugees crossed the bridge over a corpse-filled Kagera river into Tanzania and most subsequently settled in camps near the small village of Ngara. During the course of 1994 this number gradually increased to 700,000 residing in Tanzania. Other refugee camps were set up in the district of Karagwe. Added to the number of refugees coming from Burundi, about 700,000 people presently live in those camps.

Similar to the current situation in the camps in Zaire, also in Tanzania there have been problems regarding camp security, the control exercised over the refugees by their leaders, continuing impunity in regard to the perpetrators of the genocide and general militarization.

⁴³ UNHCR official, Goma, Zaire. Exact figures are difficult to obtain due to the fact that literally hundreds of refugees approach UNHCR every week declaring themselves *nouveaux arrivés* in the hope of obtaining additional plastic sheeting and food distribution cards which constitute currency in the camps. During the last week of March, out of 700 self-declared *nouveaux arrivés* in Kibumba, UNHCR deemed only 70 to have actually recently arrived from either Rwanda or the Masisi in North Kivu. UNHCR estimated that in April there were 500 true new arrivals.

Since the beginning of the year, renewed fighting in North Kivu, according to one UNHCR estimate, has resulted in more than 5,000 Zairians seeking shelter in the camps, straining already limited resources. As UNHCR's mandate does not extend to the internally displaced, those fleeing the fighting in North Kivu say that they are Rwandan refugees. While many are of Rwandan origin, most have lived in Zaire for decades. The problem of the internally displaced in North Kivu is extremely complex and intrinsically related to the Rwandan refugee crisis. See report *La Ligue des Droits de l'Homme des Grands Lacs 1995*.

However, they are no longer on the same disturbing scale as in the other countries, and therefore do not pose serious problems for the relief organizations any more.

Like other camps in the region, camp leaders exercise strong control over the refugees who are organized in the same administrative structures as those which existed in Rwanda before the genocide. Although elections of some new leaders have taken place which have not been blocked by the camp leadership, serious doubt exists, as in Zaire, about the freedom of the refugee population to make individual choices. MSF believes that the chief members of the refugee leadership are not being seen by the relief workers, since it appears that they are not willing to be involved in discussions with UNHCR and NGOs. Furthermore, MSF believes that the leaders in the camps around Ngara meet and communicate with leaders in the Karagwe district and in Zaire. Individuals were regularly reported crossing into Zaire at the end of last year. Radio sets have been stolen from the relief agencies and rumours circulate that antennae are erected in the camps at night.

It is widely known that the *Interahamwe* has close ties with the Hutus in Burundi and that segments of these groups regularly cross over the border between Tanzania and Burundi. Although intimidation by the *Interahamwe* is less prevalent than last year, at the same time there is less need for intimidation, because the leaders have already established a strong control over the refugees. As a result, the number of security incidents has decreased. UNHCR registers only cases of human rights abuses which have been officially reported by the Tanzanian police in charge of maintaining law and order in the camps. But refugees are reluctant to bring human rights abuses to the attention of the police as this may lead to reprisals by the *Interahamwe*.

There is total impunity in the Tanzanian camps just as in Zaire with leaders accused of involvement in the genocide walking around freely. In its report *Breaking the Cycle* MSF reported two such cases of leaders implicated in the genocide, but believes that there are many more.⁴⁴

MSF-France has decided to withdraw from the refugee camps as the context of the genocide presented in their opinion a situation contradictory with the principles of humanitarian assistance. MSF-Spain has left Benaco because of operational reasons but are still present in Kitale camp.

The leaders have become aware that the image they have of ruling by terror does not contribute to the donor community's willingness to continue funding. As in Zaire, funding for the camps in Tanzania is under pressure because some international donors believe that repatriation should be a priority and is the only durable solution to this crisis. These donors believe that if they decrease funds and thus food, the refugees would be 'forced' to return home. Rations are below

⁴⁴ *Breaking the Cycle* discusses the cases of the mayor (*bourgmestre*) of Rosumo and the former Chief Cabinet to the Minister for Family Affairs, a well-known *Interahamwe* leader. A serious incident occurred on 15 June 1994 when the Minister for Family Affairs was asked by UNHCR to leave the camp, but a violent crowd demanded that he would stay. This was a clear example of the power of *Interahamwe* leaders over the refugee population. Other persons allegedly implicated in the genocide continue to walk freely in Benaco camp.

2,100 kcal per day. Results of MSF food monitoring illustrate that 51% of the refugees receive less than 1,500 and 69% receive less than 1,630 kcal per day.⁴⁵

As in Zaire, repatriation from Tanzania has come to a virtual standstill. A few months ago, when UNHCR was assisting refugees who wished to repatriate, MSF received signs from the refugees that many of them were willing to go back but feared threats from the *Interahamwe*.

Another serious concern regarding respect for principles related to the protection and treatment of refugees is that at the end of March 1995, the Tanzanian authorities closed their border with Burundi, preventing thousands of refugees from entering Tanzania, including Rwandan refugees. In the light of the large-scale eruption of 'ethnic cleansing' in Burundi, this has led to an unacceptable denial of the right of asylum to refugees.

5. Parallels in Burundi

The assassination of President Ndadaye in October 1993 disrupted the democratization process which culminated in Burundi's first democratic elections in June 1993. After the assassination, Burundi was sucked into a spiral of ethnic violence among Hutu and Tutsi and between 30,000 and 50,000 people were killed in the subsequent clashes during the last two months of 1993.⁴⁶

Tensions rose after the victory of the Hutu dominated FRODEBU party over UPRONA, the ruling mainly Tutsi party. However, as the Burundian army is mainly dominated by the Tutsi ethnic group and does not support the newly-elected Hutu Government this created an unstable political situation. Both Hutu and Tutsi extremists take advantage of the situation and frequently clash with each other.

The political violence since October 1993 has led to massive population displacements in Burundi resulting from the 'ethnic cleansing' policies practiced by both Tutsi and Hutus. As a result, an estimated 500,000 to 1,000,000 people currently find themselves displaced, mainly in Muyinga, Ngozi, Gitega and Kirundo province. Additionally, some 200,000 Hutu refugees also settled in the North of Burundi fleeing from Rwanda in July 1994, after the RPF's victory. It is obvious that the presence of both the refugees and the displaced puts further pressure on the already unstable political situation in Burundi.

Although the health and nutritional situation in the camps had stabilized by November 1994, the question of protection has become more and more difficult to resolve in recent months. With the refugee camps guarded by the Burundian army and armed gangs terrorizing the region, there has been a rapid deterioration in the overall security situation both outside and inside the camps.

⁴⁵ At that time 1,630 kcal was the intended food ration.

⁴⁶ Human Rights Watch, *World Report 1995*.

In March 1995, the camp of Majuri, located close to the Rwandan border, was attacked by a group armed with guns and grenades resulting in 12 refugees being killed and 20 wounded. On 31 March, 40,000 refugees from the camp of Magara and another 40,000 refugees from Ruvumu, Kibezi and Majuri camps moved in the direction of Tanzania in reaction to rumours of forthcoming attacks. However, Tanzania closed its border forcing the refugees to return to their camps after 10 to 15 days waiting in vain to enter. The first convoy bringing the refugees back to Magara camp was attacked by young men who threw grenades into the truck. As a result ten refugees were injured. Upon their return, the refugees found that most of the camp facilities had been looted. Kibezi hospital had already been looted at the moment of their departure.

After the massacre in Kibeho camp in Rwanda and its subsequent closure, two groups of refugees fled to Burundi. However, it has been reported that some of them were refused entry or were forcibly returned to Rwanda.⁴⁷ By May 30, a first group of about 16,000 Rwandans moved to Cibitoke province but were forced to continue into Zaire. A second group of about 800 was transferred to Ngozi from where 550 were forcibly repatriated to Rwanda on 9 May. To avoid being repatriated, one refugee killed himself and another was wounded after jumping from the truck transporting the refugees back to Rwanda.

Although small numbers of refugees do repatriate voluntary to Rwanda, since the Kibeho massacre most of them remain anxious about returning to Rwanda and fear that they will be arrested.

Living conditions inside the camps have declined due to their isolation. The only food supply consists of the 1,600 kcal per day. This is insufficient and can no longer be supplemented because informal trade with neighbouring communities has come to a standstill. As a result, dependence on external aid is growing. At the same time, the security situation is deteriorating for humanitarian staff as well. On 8 May 1995, an expatriate staff member of Catholic Relief Services was killed in Kirundo province.

The Organisation of African Unity (OAU) recently expressed its fear that the ongoing violence might lead to another genocide. To prevent this the OAU warned Burundi that it considers a military intervention to put an end to the ethnic killings.⁴⁸

As more refugees are still expected to arrive from Rwanda and 'ethnic cleansing' continues, MSF, together with other international NGOs and UN agencies, is concerned that the security situation in the region will further deteriorate. Eventually this might give the Rwandan refugees no other option than to forcefully return to Rwanda or seek refuge elsewhere.

⁴⁷ *Report of the Secretary-General on the United Nations Assistance Mission for Rwanda, S/1995/457 (1995).*

⁴⁸ Nicholas Kotch, 'Africa warns Burundi Military Intervention possible', *Reuters*, 28 June 1995.

III. VIRTUAL STANDSTILL ON REPATRIATION AND CONTINUED IMPUNITY: FACTORS *INSIDE* RWANDA AND THE INTERNATIONAL LEGAL RESPONSE

It is undeniable that the legal structure in Rwanda has largely been destroyed as a result of the genocide, the war and the refugee exodus. With the paralysis of the courts in respect to bringing the perpetrators of the genocide to trial, the continued increase in arrests and tension over property rights, the country is locked into a situation where vengeance reigns over justice. At the same time, the international community has pledged to support the reconstruction of the Rwandan legal system, but has been extremely slow. The massacre at Kibeho camp further fuelled the refugees' perception that it is not safe for them to return home. As a result, these factors have led to a virtual standstill of repatriation.

1. Lack of Progress in Bringing the Perpetrators of the Genocide to Trial

On 6 April 1995, the first trial of seven people connected with the genocide was opened in Kigali. After a brief hearing, all proceedings were adjourned because of the need for further investigations. This trial illustrates how it is currently impossible to carry out justice in Rwanda. The judicial system still lacks the capacity to try the thousands of detainees waiting to be tried before a court.

1.1. Obstacles

The Rwandan legal structure was decimated by the genocide and the refugee exodus. However, the new government may not necessarily look to build a strong and independent judiciary system. Autonomy of the judiciary has never existed before in Rwanda. Considering the deplorable state of the Rwandan legal system, it seems unlikely that it will be capable of reviewing each individual case among the 49.000 detainees.⁴⁹ Among them, there are numerous cases of people who have been coerced by the militia and the army to participate in the genocide.

There are very few remaining judges, lawyers or other members of the judiciary and many of them are not prepared to try or defend individuals accused of genocide.⁵⁰ The system functions today thanks to a few judges who escaped the killings and genuinely want to ensure that a real justice prevails in Rwanda.

Some of the judges currently serving in the Rwandan courts have practiced during the regime of President Habyarimana. Their role during the genocide is unclear. Until they do not demonstrate

⁴⁹ Source: International Committee of the Red Cross (ICRC).

⁵⁰ There is a lack of qualified personnel at all levels. Citizens Network, a small NGO, is providing training in an attempt to meet the need for inspectors for the police judiciary, magistrates and directors for the penitentiary institutions.

their loyalty to Rwanda today by condemning the perpetrators of the genocide, their role and credibility remain doubtful.

Those judges who would like to build a strong and independent judicial system in Rwanda are in a precarious situation and regularly exposed to threats. They are unable to establish their authority over some of the army elements, which have an extremely influential role in the current workings of the legal system. As a result, current abuses are not being tried.

Moreover, there are other technical difficulties which exacerbate the problem. The institutions which are essential for the correct operation of the justice system are not all in place. Institutions required for nominating judges to the Supreme Court and the Conseil de la Magistrature have failed to meet as they do not have the required number of members. The judges of the Supreme Court nominate those that sit on the Board of Magistrates. There were two candidates for the post of President of the Supreme Court, but one has decided to withdraw his candidature following death threats.

Several laws are currently under review in parliament in answer to the exceptional character of the current situation. These include a special law providing for the crime of genocide as the Rwandan penal code does not cover this specifically. A law is also envisaged which provides for the release of those imprisoned in violation of the normal rules covering arrest and detention. A further bill is currently before parliament proposing that judges be nominated by the government and these judges would subsequently elect the Board of Magistrates. How these two institutions are reconstructed will determine the future of the Rwandan legal system and thereby guarantee future political stability. Another proposed law would make it possible for foreign magistrates to sit on Rwandan tribunals in order to reinforce the capacity of the Rwandan magistrature.

1.2. Number of Arrests and Arbitrary Arrests

Whilst waiting for these obstacles to be removed so that courts can start to hold trials, the number of persons detained because they are suspected to be implicated in the genocide rising over the past months. The prison in Kigali officially reopened its doors in September 1994, when the arrests first began, and the other prisons were reopened during the following months. Given the large number of killings during the genocide, the number of arrests was obviously very high.

However, from July to October, numerous acts of summary revenge were reported by several sources. The Rwandan Government acknowledged what was happening and broadcast radio messages condemning these acts of vengeance. From October to December, the number of detainees rose considerably. By the end of January, 20,000 prisoners were being held in the various official prisons throughout the country. A considerable number of prisoners were also held in communal *cachots* and other non-official detention centers. The number of arrests increased in the following

months so that by June, the official number of prisoners was estimated at 49,000 detainees in Rwanda, crammed in 13 overcrowded prisons and 160 known *cachots*, small lock-ups in the various communes.⁵¹

Most detainees have not been arrested on the basis of any official legal document, such as an arrest warrant. These arrests and incarcerations are therefore illegal under Rwandan law. Of the 400 detainees in the prison of Kibuye, only some of them have an arrest warrant. The virtual absence of courts further hampers the proper review of possible illegal arrests and therefore does not have any deterrent effect on the authorities involved in making arrests.

There are now some indications that the number of arrests has temporarily decreased due to the overcrowding in the prisons. On 26 May 1995, the Rwandan Government announced that it would only arrest persons, if there would be sufficient evidence to suspect them from acts of genocide. Before, individuals were arrested without sufficient evidence or upon vague, third-hand accusations.

Most plots of land previously owned by those now in refugee camps are currently occupied, many by those Tutsi refugees who returned to Rwanda after the RPF took control of Kigali. Many of the refugees currently residing in Zaire, Tanzania and Burundi even fear being accused, often falsely, of having participated in the genocide by those who would like to remain in their recently-acquired properties. These accusations are particularly serious considering that the conditions in the detention centers are often such that being put there is considered the equivalent of a death sentence.

1.3. La Commission de Triage

Besides the fact that trials against the alleged perpetrators have yet to begin, the overpopulation in the prisons is aggravated by the fact that the system for review does not function adequately. In January 1995, the government instituted a Commission de Triage in order to screen detainees and release those held unjustifiably, for example, without an arrest warrant or without a proper file containing evidence against them. This Commission was set up to deal with the situation created by the absence of trials and the ever-increasing number of detainees. It is comprised of a lawyer from the Kigali city administration, a representative of the military security force and a lawyer from the Ministry of Defence. However, its independence is of serious concern as it is composed of representatives of the military authorities where at the same time the military was involved in carrying out the arrests. The Commission's jurisdiction is limited to Kigali.

The objective of the Commission is to review the cases and order the conditional release of

⁵¹ See footnote 49. The number of *cachots* were given by the ICRC. MSF believes that, since the amount of *cachots* is unclear, there are presumably more than 160 *cachots*. The United Nations Development Programme (UNDP) has decided to support, together with ICRC and UNAMIR, the building of a new detention centre in Nsinda which will house 5,000 prisoners.

detainees who have no case to answer or who have been illegally arrested. Given the random way in which persons were arrested, it is very likely that a large number of the prison population has falsely been accused of genocide. However, the Commission cannot deal with the countless numbers of people illegally imprisoned throughout the country. To date, the screening process led to the release of only two prisoners from Gitarama prison.⁵²

1.4. Prison Conditions

The present situation in the Rwandan prisons was portrayed by a prisoner from Kigali prison, when he stated that: "the biggest problem is the future without prospect. People die without having had the opportunity to prove their innocence."⁵³ MSF witnessed overpopulation in all prisons and *cachots* it was able to visit. Due to overpopulation, the health situation in some prisons has led to unacceptable situations and it is likely that when the overpopulation and its consequences are not dealt with and arrests continue, other prisons and *cachots* will face similar health problems.

MSF visited several prisons and *cachots* with mobile clinics. MSF runs a water programme for the recently opened Gitagata detention centre which detains 152 children ranging from 7-14 years who were transferred from the Kigali, Butare and Gitarama prisons and are part of approximately 1,100 children who were arrested in Rwanda. MSF continues to support local hospitals which serve also as a medical referral facility for prisoners. In carrying out these programmes, MSF has been able to gather medical data about the state of health of the prisoners.

The lack of basic sanitary and hygienic conditions inside the Kigali and Butare prison, led to an unacceptable health situation with alarmingly high mortality rates. From September 1994 to May 1995, 7003 prisoners have been admitted in Gitarama prison. 902 of them have already died (13%). Prisoners are treated in the MSF supported local Kabgayi hospital. In this hospital the mortality rate is even higher (more than 20%) due to the fact that the transferred patients already suffered from a serious general condition upon hospitalization.

In the prison of Gitarama, the prison population grew rapidly from 221 prisoners in September 1994 to 6,957 in May 1995, although the prison was designed to detain only 400 prisoners. Detainees live in all available space in the prison and occupy less than half a square meter per person. Most prisoners are forced to stand all day and night.⁵⁴

The lack of space in the prisons has led to a serious deterioration of the health situation of the detainees. Diseases like dysentery, malaria and respiratory-related diseases often result in the death of prisoners while meningitis and conjunctivitis (a common eye-disease), though not lethal, create

⁵² AI Index: AFR 47/14/95, Urgent Action 134/95.

⁵³ Dutch documentary 'Suspect', *VPRO Lopende Zaken*, May 1995.

⁵⁴ See MSF report, *Health Status of the Inmates of Gitarama Prison, Rwanda*, June 1995.

further health problems. The medical situation is further aggravated by foot injuries resulting from standing for long periods. At the end of May, 41% of the prisoners treated in hospital population suffered from rotting feet caused by the wet and dirty ground and which often result in amputations. Other injuries like human bites and burst eardrums result from fighting among prisoners and accidents.

2. The International Legal Response

After months of inaction, the international community finally took action by setting up the UN Human Rights Field Operation for Rwanda (HRFOR). The HRFOR, set up to investigate the genocide and to create a climate of confidence, has become widely known for its shortcomings. Eight months after the creation of the International Tribunal, the required funds have still not been made available. Although justice was declared a priority and many promises of legal assistance were made by the individual members of the international community, inertia has hampered the reconstruction of the Rwandan judicial system.

2.1. The UN Human Rights Field Operation for Rwanda

A special session of the UN Commission on Human Rights was held in Geneva on 24-25 May 1994, at the request of the Canadian Government, in order to examine the situation in Rwanda. The principal outcome of this meeting was the nomination of a Special Rapporteur charged with investigating the human rights situation, including who and what was behind the recent atrocities.⁵⁵ The UN Commission on Human Rights requested the High Commissioner for Human Rights to install a team of human rights observers in Rwanda to assist the Special Rapporteur in the carrying out of his functions.

Months passed before anything concrete happened in the field. Until September, the Special Rapporteur's team was limited to one person based in Kigali but without any means of transport or communications. The HRFOR had only a token staff up till November 1994: numbers progressively expanded from approximately 20 staff at the end of September to 80 in February 1995, reaching 121 in May 1995.⁵⁶

As the initial focus of the operation was on carrying out investigations, a Special Investigations Unit (SIU) was set up in September to assist the Special Rapporteur and a Commission of Experts which also had been established.⁵⁷ However, in December, the SIU was asked to finish its work and hand over all the information gathered to the new International Tribunal for Rwanda and placed at the disposal of the Prosecutor's office. In effect, this has led to a change in

⁵⁵ UN Commission on Human Rights resolution S-3/1, 25 May 1994 and Economic and Social Council decision 1994/223, 6 June 1994.

⁵⁶ Last figure was given by the Secretary-General in his latest report on UNAMIR, see footnote 47.

⁵⁷ UN SC Res. 935 (1995).

focus for the HRFOR from its initial task of investigating the genocide to one more concerned with the current human rights situation.⁵⁸

The HRFOR has been widely criticized, but it should not be forgotten that it had neither the means nor the backing to help it reach the original objectives set for it. Thus, first, there was a lack of equipment and qualified personnel. Second, there was no coherent political framework. And finally, it is too early to pass judgment on its work as all the documented evidence collected and collated by the team was handed over to the International Tribunal in April 1995 and the contents cannot be made public until further authorization is given.

This was the first operational field mission of the UN High Commissioner for Human Rights. It was originally to be allocated a budget of some \$10,000,000 for the period of September to June 1995. This budget was revised to \$15,000,000 as 22 June 1995, of which only \$6,500,000 have actually been received by them.⁵⁹

2.2. The International Tribunal

On 8 November 1994, the Security Council decided to set up an International Tribunal for Rwanda with the sole purpose of prosecuting those responsible for genocide and other serious violations of international humanitarian law.⁶⁰ Judge Richard Goldstone was appointed Prosecutor, the office he also holds in relation to the International Tribunal for the Former Yugoslavia. A Deputy Prosecutor, Malagasy Judge Honoré Rakotomanana, took office on 20 March 1995.

There have been the same problems in regard to settling a budget for the International Tribunal for Rwanda as for its homologue on former Yugoslavia. Although four investigators have been transferred by the Prosecutor from the Former Yugoslavia Tribunal, no serious work can be undertaken under the currently existing conditions of budgetary uncertainty.

The Security Council nominated six judges in May 1995, thus enabling the Tribunal to be inaugurated on 26 June. Prosecutor Goldstone has been able to obtain promises of voluntary contributions towards the Tribunal from certain countries at a meeting in Kigali in May. A total of \$1,800,000 was promised but not yet transferred. Further pledges made more recently amount to an additional \$9,000,000. However, the Tribunal has to wait for these financial promises to be realized before it can commence operating.

The Deputy Prosecutor has announced that he expected the first indictment to be handed down at the beginning of 1996.

⁵⁸ See African Rights, *Rwanda: 'a Waste of Hope'*, *The United Nations Human Rights Field Operation*, March 1995.

⁵⁹ The amounts have been rounded off. Emergency Human Rights Field Operation in Rwanda. *Statement of Pledges and Contributions as at 22 June 1995*.

⁶⁰ UN SC Res. 955 (1994).

2.3. Countries harbouring Perpetrators of the Genocide

In Resolution 955 (1994), the Security Council determined that all countries should fully cooperate with the International Tribunal and are therefore obliged to take all necessary measures under their domestic legal systems to implement the terms of the Resolution and Statute of the Tribunal. Article 28 of the Statute implies that countries have a duty to arrest and detain individuals accused in relation to the genocide and hand them over to the International Tribunal.⁶¹

The Tribunal has announced that the majority of the 400 persons suspected of planning and implementing the genocide are presently based outside Rwanda. Many are in Africa, but there are also a number in Western countries, such as Belgium and France. Rwandan victims now staying in foreign countries have tried to have Rwandans implicated in the genocide arrested in those countries but the legal authorities have been very slow in reacting.⁶² In France, the Ministry of Justice did not even examine a complaint issued in 1994 against members of the Habyarimana family until they had left French territory. This is even more disturbing against the background of France's role in arming and training the authors of the genocide.⁶³ However, these countries are obliged to prosecute these suspects - or extradite them to a country willing to prosecute - under the principle of universality of jurisdiction, which covers grave breaches of humanitarian law of the four 1949 Geneva Conventions.

2.4. Failure to Deliver the Financial Aid Promised to Rebuild Rwanda's Legal System

The reconstruction of the legal system was recognized as a priority by the international community shortly after the genocide had taken place. However, as with the financing required for the International Tribunal, the promised donations arrive very slowly and far too late. During a round table conference in Geneva in January 1995, the sum of \$5,000,000 was promised as emergency aid for the legal system. However, funds were spent for numerous months on multiple evaluation missions. In March 1995, the High Commissioner of Human Rights issued an important document covering the vast program of technical cooperation that would be necessary. This indicated that the legal system in Rwanda required financing to the amount of \$10,000,000: a year on from the genocide approximately \$1,000,000 has been received in donations. Although the programme costs have been carefully detailed, there is little, if any, documentation regarding the donations.

⁶¹ See also UN SC Res. 978 (1995).

⁶² In Belgium, four suspects have been arrested since May 1995.

⁶³ See footnote 9.

2.5. Impunity continues

In *Breaking the Cycle*, MSF stated that those suspected of having been involved in the killings, still enjoy total impunity for their crimes. Although some progress has been made, such as the creation of the International Tribunal, impunity is still continuing. Until today, no trials, in- or outside Rwanda, have taken place.

MSF has always taken the position that impunity should be brought to an end, as many of those enjoying impunity continue to walk freely in the refugee camps. As such, impunity is one of the elements which has contributed to the moral dilemma. At the same time, MSF is not in the position to determine whom of the internally displaced persons or refugees may have been involved in the genocide.

MSF believes that the problem of impunity is even more dominant as there has been increased reports that some of the suspected killers may have been hired by the humanitarian organizations, including MSF. For many of the humanitarian organizations, it is common practice to hire local staff: in this case, the inhabitants of the refugee or displaced camps. Thus, MSF may have hired unwillingly suspected killers.

Therefore, MSF believes that the allegations should be taken seriously by the humanitarian organizations. Although MSF believes it to be impossible to investigate the history of its local Rwandan staff, it will take all reasonable measures to avoid that it employs suspected killers.

In Rwanda, MSF has given lists with the names of its local staff to the Rwandan Government, as one of its routine obligations under an agreement with the authorities. Those authorities are also responsible to arrest and detain suspected persons according to internationally accepted standards. In Rwanda's neighbouring countries, MSF shall take all appropriate steps if the organization employs persons of whom there is sufficient evidence that they have been involved in the genocide.

3. Massacres at Kibeho Camp for Internally Displaced Persons⁶⁴

Repatriation of the refugees from Rwanda's neighbouring countries ground to a halt in April, when the Rwandan Government forcibly closed camps in South-West Rwanda where thousands of internally displaced persons stayed. On 22 April, the RPA killed thousands of defenseless displaced persons, including many women and children.⁶⁵ The displaced persons were forced to regroup on a hill, where they stood squeezed together without shelter for several days, and without having access to food, water and sanitation.⁶⁶

3.1. Events leading up to the Massacre

The Rwandan Government considered that these camps harboured persons responsible for the genocide. The government maintains that these camps were sanctuaries for elements of the ex-FAR and militia, threatening to de-stabilize the country and being suspected of preparing a renewed attack.

The government planned the closure of the camps. In the first months of 1995, the government reached an agreement with UNAMIR to empty the camps of the displaced persons. From 15 April onwards, the camps would be emptied in phases in an orderly and peaceful manner. Despite this agreement, the RPA entered and cleared the camps of Kibeho, N'dago and Munini by chasing the displaced out of their shelters and forcibly regrouped them on the hills in the night of 17-18 April.

During the days prior to the massacre, tension between the RPA forces and the camp population increased. Several violent incidents occurred in which a dozen displaced persons were killed. Access for MSF staff to the displaced became more and more difficult since people were so tightly packed together. Even more disturbing for the humanitarian organizations was that the RPA did not permit them to have access to these populations in need of humanitarian aid.

Consequently, the health situation of the displaced deteriorated due to lack of access to basic sanitary facilities and adequate water. On 21 April, there was an imminent risk of outbreaks of

⁶⁴ See MSF, *Report on Events in Kibeho Camp, April 1995*. This report was drafted in order to make the MSF testimony available to the independent International Commission of Inquiry and to the Rwandan Government. The information on the massacre is based on eyewitness accounts of MSF expatriate staff who were present in Kibeho camp during the massacre. MSF was present in the camps since August 1995. During the Kibeho massacre, 15 MSF expatriates were present in Kibeho hospital.

⁶⁵ In August 1994, an estimated 380,000 displaced persons lived in 37 camps in southwestern Rwanda in the former *Zone Turquoise*, the French protection zone. In April 1995, 250,000 displaced persons lived in mainly nine big camps and a few smaller ones. About 75,000 displaced already returned to their communes due to repatriation operations *Operation Homeward* and *Operation Retour*.

⁶⁶ MSF would like to ensure that it does not place the massacre in Kibeho on the same footing as the 1994 genocide in Rwanda. Apart from that MSF is acting as a witness when it elaborates on the Kibeho massacre, the massacre in Kibeho is mentioned in this report, as these events have proven to be one of the main factors seriously inhibiting repatriation.

cholera and dysentery.

3.2. 22 April 1995: the Kibeho Massacre

In the early morning of 22 April, the RPA opened fire into the crowd of tightly packed displaced persons, which marked the beginning of three periods of intense shooting. The first period which lasted from 07.00-11.00 hrs was not directly witnessed by MSF staff but was confirmed by other international aid workers present.

Before the second period from 12.05-13.30 hrs started, MSF staff entered Kibeho camp and witnessed many wounded and dead people. They watched as a large group of RPA soldiers marched down the hill whistling and singing in excitement about the imminent attack. Then the shooting started and MSF staff was evacuated to one of the UNAMIR compounds. When the shooting subsided, UN personnel asked MSF to give medical assistance in the UNAMIR compounds. UNAMIR would bring in the wounded and provide escort. The crowd was standing quietly, terrorized and MSF staff saw a whole lane of dead and dying men women and children, piled up three deep. At that point the bodies covered an area of about 75 square meters.

Then the third period of shooting started, lasting from 15.45-18.00 hrs, with permanent machine gun fire combined with heavier weapons than before. As a result, many displaced persons fled inside the UNAMIR compound followed by RPA soldiers who were on the verge of shooting them. UNAMIR soldiers intervened and pushed the displaced out of the compound in a very rough way. After the patients had been treated, UNAMIR staff even put the wounded people back in to the crowd which was under fire. When MSF staff was finally evacuated from Kibeho camp around 18.00 hrs, continuous firing was still heard from the hills. Aid workers watched as the RPA shot fleeing displaced persons in the back.

3.3. Continued Lack of Protection

The days following this massacre, the RPA continuously denied MSF staff access to the camp. When MSF eventually was granted access to the camp the RPA still denied the staff access to the wounded in the buildings of the camp.

After the violent closure of the camps and the massacre in Kibeho camp, the internally displaced persons returned to their communes. The roads were covered with belongings of the population indicating their hurried departure. The already wounded, exhausted and traumatized people were upon arrival in Butare awaited by a crowd throwing stones. This has equally been reported in other communes.

Finally, on 24 April, all the camps were closed. Also some of the smaller camps along the

road from Gikongoro to Kibeho were emptied. Seemingly, the populations moved off spontaneously.

3.4. The Role of UNAMIR

MSF believes that UNAMIR has failed to protect the internally displaced persons during the Kibeho massacres, as they were obliged to according to their mandate. According to the expanded mandate, laid down by Security Council resolution 918 (1994), UNAMIR was entrusted with the following tasks:

- (a) Contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda, including through the establishment and maintenance, where feasible, of secure humanitarian areas;
- (b) Provide security and support for the distribution of relief supplies and humanitarian relief operations.

Additionally, the Council recognized in Resolution 918 that UNAMIR may be required to take action in self-defence against persons or groups who threaten protected sites and populations, United Nations and other humanitarian personnel or the means of delivery and distribution of humanitarian relief.

According to international law and practice concerning UN peace-keeping operations, a peace-keeping force is allowed to use armed force in self-defence only. A wider notion of the concept of self-defence, as applies here, includes that action in self-defence may be required in case of an armed attack on protected sites and populations. Such a peace-keeping mandate implies an engagement which goes beyond traditional limits of peace-keeping and goes in the direction of peace-enforcement.⁶⁷

On the basis of this, MSF concludes that UNAMIR failed to fulfil this protection mandate. Since, the displaced population was subjected to a large-scale armed attack, UNAMIR had the duty to re-act in self-defence involving the use of armed force in order to protect this displaced population.

⁶⁷ After the end of the Cold War, the traditional boundaries between peace-keeping and peace-enforcing are fading away. See, for example, Shasi Tharoor, *United Nations Peace-keeping in Europe*, in *Survival* vol 37, no. 2, 1995.

3.5. Commission of Inquiry on the Events at Kibeho

The international community's reaction to the massacres in Kibeho included statements of strong condemnation and the suspension of non-humanitarian assistance on the part of Belgium, the Netherlands (\$ 5,5 million to the UNDP Trust Fund) and the European Union. Others believed, however, that the suspension of humanitarian aid was short-sighted and potentially counter-productive. The UN Secretary-General decided to send a special envoy to Rwanda, Mr Aldo Ajello, to convey his concerns to the Rwandan leaders and urge the government to undertake an impartial investigation.

On 27 April, the Rwandan Government announced that an independent International Commission of Inquiry would be set up to investigate the circumstances and causes of the Kibeho events.⁶⁸

In its report on the Kibeho massacre, the Commission recognized the intention of the Rwandan Government to close the camps as legitimate.⁶⁹ The Commission concluded that the massacre: "neither resulted from a planned action by Rwandan authorities to kill a certain group of people, nor was it an accident that could not have been prevented." The Commission attaches equal importance to serious human rights abuses committed by RPA military personnel and by armed elements among the displaced persons themselves when it concluded that there was sufficient reliable evidence that unarmed internally displaced persons were subjected to serious human rights abuses committed by both the RPA and armed elements in the camps.

Due to logistic and time constraints, the Commission did not determine the exact number of fatalities but, according to the Commission: "it is apparent that the numbers are more than those formally counted in the Kibeho camp." The Rwandan Government's official number is 338 deaths. MSF maintains that thousands of people have been killed and believes that the Commission should have been provided with the time and logistics facilities needed to determine the exact number of fatalities.

The Commission does not analyze on UNAMIR. The Commission states that UNAMIR did not respond adequately to this situation. It does not give any analysis regarding the non-intervention of UNAMIR when the lives of the displaced were being threatened and when they were subjected to indiscriminate killings.

The Commission remarked that: "some NGOs actively contradicted the policies of the Government of Rwanda by [...] by pursuing discriminatory hiring practices." However, MSF

⁶⁸ See S/PRST/1995/22, 27 April 1995. The Commission consisted of 13 members from Belgium, Canada, France, Germany, the Netherlands, Rwanda, the United Kingdom, the United States of America, the Organization of African Union and the United Nations.

⁶⁹ Report of the Independent Commission of Inquiry on the Events at Kibeho, S/1995/411, 23 May 1995.

maintains that it is common practice among the humanitarian relief NGOs to hire local staff, usually refugees or displaced inhabitants of the camps. In Kibeho camp where mainly Hutus stayed, and which is suspected to house hard core elements responsible for the genocide, local staff should preferably also be Hutu as any Tutsi staff would risk being killed.

The Commission also remarked that: "the decision of a number of NGOs not to cooperate with the closure operation once it began exacerbated the humanitarian crisis." However, MSF has never made an agreement with the government that MSF would be involved in the process of convincing and actually organizing the displaced persons to return home.

In its recommendations, The Commission calls upon the Rwandan authorities: "to carry out an analysis of mistakes which occurred in the closure of the camps [...] as well as an investigation of individual responsibilities." The Commission recommends to the international community to continue to assist the Rwandan Government to achieve justice, national reconciliation and reconstruction.

According to Vice President and Minister of Defense Paul Kagame the Rwandan authorities already started with the investigation of individual responsibilities, by way of an internal investigation of the RPA, which will also try those responsible. After preliminary internal investigations, the local RPA Commander and Deputy Commander have been suspended.

3.6. The Extension of UNAMIR's Mandate

As UNAMIR failed to fulfil its mandate in Kibeho during the massacres, the question of renewal, when the mandate was due to expire on 9 June 1995, became very relevant. On 4 June, the Secretary-General released a report (S/1995/457) which included recommendations on a new mandate. The Secretary-General concluded in this report that the situation in Rwanda had changed and that the focus of UNAMIR's mandate could be shifted from peace-keeping to confidence-building. On 9 June, under the pressure from the Rwandan Government, the Security Council announced that the UNAMIR force would be reduced from 5,500 to 2,330 within three months, and to 1,800 within four months, of the adoption of Resolution 997 (1995). The tasks of the reduced force are *i.a.* the following:

- (a) Exercise its good offices to help achieve national reconciliation within the frame of reference of the Arusha Peace Agreement;
- (b) Assist the Government of Rwanda in facilitating the voluntary and safe return of refugees and reintegration into their home communities, and, to that end, support the government in its ongoing efforts to promote a climate of confidence and trust through the performance of monitoring tasks throughout the country by military and police observers;

- (c) Support the provision of humanitarian aid, and of assistance and expertise in engineering, logistics, medical care and de-mining.

It is noticeable that protection of the Rwandan population has been left out of the mandate. The Rwandan Government maintains that it has assumed responsibility for national security throughout the country and insists that if the arms embargo was lifted, it would be able to protect the country against border incursions and other subversive actions by the former military and militia. This was refused by the UN.

However, the Security Council did extend the existing arms embargo to the sale or supply of arms to persons in the states neighbouring Rwanda which are meant to be used against Rwanda. The Council requested the Secretary-General to consult Rwanda's neighbours on the possibility of deploying military observers and, as a matter of priority, the Government of Zaire in order to monitor the arms embargo on airfields located in Eastern Zaire.

UNAMIR regained a traditional peace-keeping mandate although it is doubtful whether this mandate gives UNAMIR enough scope to respond to the current fragile and unstable situation in Rwanda. Military activities by the ex-FAR and militia and rumours of increased border incursions are clear threats to international peace and security in the region. Although the Rwandan Government is responsible for maintaining law and order, it is the UN's mandate to take effective measures for the prevention and removal of threats to international peace and security.⁷⁰ The deployment of international observers to monitor the delivery of arms and training activities is only a first step in this direction. The observers should be deployed without any delay. On 26 June, it was reported that the Zairian Government would take a decision on this matter. To date, however, it is uncertain whether this decision was taken and, if so, whether the Government of Zaire gave its consent to the deployment.

⁷⁰ See Article 1 paragraph 1 UN Charter.

IV. THE MORAL DILEMMA

The self-proclaimed government-in-exile has taken steps to improve the public image of the camps such as improved security and the elections of representatives for the social and political life. However, it is obvious that even these changes are under the close control of the politicians of the former Rwandan regime which perpetrated the genocide. This appearance of calm is was undertaken to improve the image of the refugee leadership with the international community in order to secure the continuation of the international aid efforts.

MSF faces a moral dilemma when it provides humanitarian assistance to a refugee population of thousands of innocent civilians who are living in these Rwandan refugee camps alongside the authors of the genocide who are making preparations for a new military attack. For an organization such as MSF the debate is whether it should continue to provide humanitarian assistance to a refugee population which is used by the perpetrators of the genocide as a means to increase their power. Whether in these circumstances it would be justified to cease the humanitarian assistance to the refugee population presents a moral dilemma for the organization. Some say such a situation is contradictory to the principles of humanitarian assistance. Others say that the humanitarian principles demand the continuation of humanitarian assistance while at the same time raising a critical voice. This debate has forced MSF to reconsider the boundaries of humanitarian aid.

Since MSF published its report *Breaking the Cycle* the organization has continuously critically evaluated the developments regarding camp security, impunity and militarization against the background of the humanitarian needs. MSF has asked the international community and the governments of Rwanda and Zaire to take effective measures with respect to security and safety of the refugees, bringing an end to impunity and militarization and providing the conditions for a safe return of the refugees.

CONCLUSIONS

MSF is seriously concerned that with the increasing influence of extremists on both sides of the border, the cycle of violence will not be broken. There is no hope for reconciliation if there has been no justice for the victims of the genocide. MSF also believes that the ultimate safe return of the refugees is vital in bringing stability and harmony in Rwanda. In the mid-term a solution should be found for all the refugees. This is vital in bringing stability all over the sub region. In a short term perspective all refugees who volunteer to go back to Rwanda should have the possibility to return in safety and in dignity.

However, as long as propaganda by the camp leaders, the arbitrary arrests, revenge actions, overcrowded prisons and the absence of an effective judicial system continue, the refugees will not have the sense of security and confidence that is needed for them to believe that it is safe to return.

Refugees have the right to humanitarian assistance and to decide themselves whether or not is safe to return to their country of origin. The victims of the genocide have the right to see justice being done. It is the duty of the international community and of the Government of Rwanda to ensure that these fundamental rights are being guaranteed.

Therefore MSF concludes the following:

Safety of the Refugees

1. It is the responsibility of the host government to maintain law and order. In Goma the Zairian Contingent (CZSC) is in charge of law and order in the camps under supervision of the Civilian Security Liaison Group. In order to take up its task more effectively the Liaison Group should be enlarged with more staff. The fundamental rights of the refugees should be protected including the right to choose to remain in the camps and the right to return home safely and voluntarily. An end should be brought immediately to vigilante justice.
2. Human rights monitors should be deployed in all camps. This measure should be implemented immediately. In addition to reporting to the relevant UN bodies on human rights violations in the camps, the monitors should also collaborate with the Liaison Group. These reports should be made public.
3. As part of its obligation to provide protection to the refugees UNHCR should actively follow up on returnees. This similarly applies to the human rights monitors inside Rwanda.
4. Since refugee registration was completed in Zaire and is due to take place for the second time in Tanzania, each family has received or will receive a food ration card. After having carried out

registration, UNHCR should implement food distribution at the family level in all the camps so as to ensure the equitable distribution of humanitarian aid.

5. In Burundi the Rwandan refugees are seriously affected by the highly volatile security situation throughout the country. Measures need to be taken to ensure that refugees can live in safety and do not need to fear for their lives.

Militarization

6. The Zairian Government, the UN and individual Member States should take all measures necessary to prevent that the refugee camps are used as launching pads for cross border incursions and other military activities.

7. Countries involved in arming the perpetrators of the genocide or supporting them otherwise in their military activities should immediately halt these activities. The arms embargo instituted against Rwanda according to Security Council Resolution 918 (1994) now also applies to arms destined to be used against Rwanda as was decided by the Security Council in Resolution 997 (1995). This arms embargo should be enforced without delay.

8. Following Security Council Resolution 997 (1995) military observers should be deployed at the airports and refugee camps in Eastern Zaire. They should publish the results of their findings.

Bringing an end to impunity

9. Those responsible for genocide and grave breaches of humanitarian law must be brought to justice. States should act according to their obligation set out in Security Council Resolution 978 (1995) and "arrest and detain, in accordance with their national law and relevant standards of international law, pending prosecution by the International Tribunal for Rwanda or by the appropriate national authorities, persons found within their territory against whom there is sufficient evidence that they were responsible for acts within the jurisdiction of the International Tribunal for Rwanda."

10. MSF furthermore calls on the international community to provide adequate assistance and funding for the re-establishment of the rule of law in Rwanda so as to ensure that fair trials can be held as soon as possible. Similarly, states should give adequate funding and assistance to the International Tribunal and lend their cooperation in every respect in order to bring those accused of genocide to justice.

Overcrowded prisons

11. The Government of Rwanda, assisted by the international community must ensure that prisoners are not subjected to cruel, inhuman or degrading treatment by keeping them locked up in overcrowded prisons. Prisoners should also be allowed full access to health care. Sufficient space needs to be created for the prisoners to live on. Prisoners should not be held for unreasonably long periods without trial and should have their cases reviewed by an independent and adequately staffed Commission de Triage.

The Kibeho massacres

12. The Rwandan Government should implement the recommendations of the Independent International Commission of Inquiry into the events at Kibeho and in particular carry out an analysis of mistakes which occurred in the preparation and handling of the closure of the camps, as well as a thorough, prompt and impartial investigation of individual responsibilities within its armed forces and any other factors which may have contributed to the Kibeho events.

13. Following the Commission's recommendation the international community should encourage and assist the Rwandan Government in its efforts to achieve justice, national reconciliation and reconstruction.

Local staff of humanitarian organizations

14. All humanitarian agencies, UN agencies and NGOs, should critically examine any allegations of local staff having participated in the genocide and in any case should ensure that those of whom there is sufficient evidence that they have participated in the genocide, including those who will be indicted by the International Tribunal, are not employed by them.

ANNEXES: MSF SECTIONS AND REGIONAL MAP

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