

amnesty international

1999 UN COMMISSION ON HUMAN RIGHTS

**Making human rights work:
time to strengthen the special procedures**

**Appeal cases:
THE GREAT LAKES REGION
OF AFRICA**

February 1999
AI INDEX: AFR 02/01/99

DISTR: SC/PG/PO

Amnesty International is a worldwide movement that works to prevent some of the gravest human rights violations wherever they occur. The organization does not grade countries according to their human rights record but concentrates on ending specific violations. The 55th session of the UN Commission on Human Rights (Commission) will meet for six weeks in Geneva from 22 March to 30 April 1999.

Amnesty International is calling on the Commission this year to act on Algeria, Cambodia, the Great Lakes region of Africa (Burundi, Democratic Republic of Congo, Rwanda), Turkey and the United States of America, where human rights violations and abuses are grave, persistent, and/or widespread. This document summarizes Amnesty International's concerns in three of these countries, Burundi, Democratic Republic of Congo, Rwanda , and includes three appeal cases which illustrate some of Amnesty International's concerns in those countries.

Amnesty International urges all governments, whether members or observers, attending the Commission to take up these appeal cases as well as Amnesty International's recommendations in their bilateral and multilateral meetings with government representatives of Burundi, Democratic Republic of Congo and Rwanda. Where the Commission adopts a resolution, takes a decision or its Chair makes a statement on the human rights situation in these three countries, specific action should also be taken to address the violations in the appeal cases.

SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS IN THE GREAT LAKES REGION OF AFRICA

A horrific catalogue of persistent, widespread and gross human rights abuses is the everyday reality in the Great Lakes region of Africa with impunity acting as a catalyst for renewed cycles of violence. In a vicious circle, the human rights crisis which has plagued the region for years has been, and remains, the root cause of old and new conflicts which, in turn, give rise to forced mass displacement. As the conflicts have become increasingly internationalized, human rights abuses are committed throughout the region and beyond. In this context, large scale massacres of unarmed civilians, deliberate and arbitrary killings, extrajudicial executions, "disappearances", torture -- including rape and other forms of sexual abuse -- ill-treatment, arbitrary arrests, incommunicado detention, detention conditions amounting to cruel, inhuman or degrading treatment, denial of due process in the administration of justice, the use of child soldiers and the use of the death penalty seem to be the norm. Driven by fear, people are forced to flee their homes and communities giving rise to mass internal and cross-border displacement. Many of those in flight have yet to find security either in their own or in a neighbouring country. At least 600,000 people are internally displaced within Burundi, and hundreds of thousands have fled the country, including over 260,000 who have taken refuge in Tanzania. Also, in early January 1999 the UN High Commissioner for Refugees expressed grave concern about the fate of approximately 1,500 Congolese refugees who were forcibly expelled from Uganda to the DRC. As of January 1999, an estimated 500,000 people are internally displaced in Rwanda.

Across the region, unarmed civilians -- taking no active part in the hostilities -- have paid a high price with thousands of vulnerable children, women, men and elderly people being deliberately killed both by government forces and armed opposition groups. In Rwanda, many elderly people unable to flee have been among those killed by Rwandese Patriotic Army (RPA) troops carrying out brutal counter-insurgency operations. The war which broke out in the Democratic Republic of Congo (DRC) in August 1998 has contributed to a further deterioration of the human rights situation across the region leading to an increase in the involvement of neighbouring countries and troops from other African countries and to further internationalization of the conflict. In the context of escalating hostilities, international humanitarian law has been flagrantly and systematically violated by all parties. In addition, transfers of arms and the provision of funding to buy military equipment from foreign governments and other sources to the region are common. No government supplying military and security equipment to the region is known to have taken any steps to ensure that these would not be used to perpetrate human rights abuses.

People continue to be targeted purportedly on account of their real or perceived ethnicity and/or political affiliation. Civilians are targeted by combatants out of reprisal for losses suffered or simply to punish alleged collaborators and informants. In the DRC women have been particularly targeted for human rights abuses and reports of rape and other acts of sexual violence by combatants have recently escalated. Sexual violence appears to be used as a weapon of war by combatants at times preceding or accompanying the massacre of civilians.

In addition to abuses perpetrated in the context of insurgency and counter-insurgency operations, numerous human rights violations occur in the context of law enforcement and the administration of justice. Many arrests appear to be arbitrary without substantive evidence resulting in unlawful detentions. Others are apparently politically motivated and result in prolonged detention without charge or trial. There are widespread reports of detainees

suffering beatings and other forms of ill-treatment. In the context of fair trial procedures, serious concerns arise in all three countries. In Burundi, for instance, most of the trials which have taken place continue to fall far short of international standards for fair trial, despite the activities of the UN Program of Judicial Assistance. Many detainees are tortured. Incommunicado detention which makes people more vulnerable to torture and "disappearances" is common throughout the region. Throughout 1998 in Rwanda, there was a dramatic increase in "disappearances": hundreds and possibly thousands of people "disappeared" across the country, including in the capital Kigali. Some are believed to be held in military detention centres to which access is denied, but most are believed to have been killed.

Detention conditions in the three countries are generally poor, amounting -- in some cases - to cruel, inhuman or degrading treatment. For instance, in Rwanda, since 1994 thousands of detainees have died as a result of gross overcrowding. In Burundi hundreds of detainees died in 1998 as a result of harsh conditions of detention, including malnutrition and lack of access to medical care. Prisoners under sentence of death in Mpimba Central Prison in the capital Bujumbura are held under particularly harsh conditions. Extremely limited measures have been taken in the three countries to address problems of overcrowding and the majority of detainees remain without trial, and have had no chance to formally challenge the basis for their detention.

With respect to the imposition of capital punishment, the DRC government is using the death penalty more than any other country in the region. Since it came to power in May 1997 there have been at least 70 executions, all but one during 1998. In Burundi, at least 260 people have now been sentenced to death, the majority of them in connection with massacres committed in 1993. Those sentenced to death may appeal only to the Cassation Chamber of the Supreme Court and over 50 of those who received the death penalty in connection with the massacres have had their appeal turned down and, unless the president grants clemency, could be executed. Across the region, most of those executed were sentenced to death following unfair trials, including, in some instances, without a right of appeal. In Rwanda, for instance, in April 1998 the government carried out the first executions of people found guilty by the Rwandese courts of participation in the genocide in 1994. Twenty-two people were executed by firing squad in front of large crowds, despite the government's earlier commitment not to carry out executions in public. Several of those executed had had an unfair trial. In the DRC, people have been executed as a result of sentences handed down by the Cour d'ordre militaire, Military Order Court. The court was set up in August 1997 to try undisciplined soldiers but it increasingly tries and convicts civilians, including for non-violent political offences.

Impunity for gross human rights abuses prevails across the region and very few of those responsible have been arrested and brought to justice. For instance, in Burundi, few human rights violations allegedly committed by the security forces have been investigated and very few soldiers have been tried and convicted of human rights violations. In Rwanda, massacres carried out by the RPA appear to go almost unnoticed. In some cases, the Rwandese authorities have taken action against RPA soldiers allegedly responsible for killing civilians, but the vast majority of these crimes go unpunished. In addition, some RPA soldiers reported to have been found guilty of human rights violations are reported to have subsequently returned to active duty. With respect to the DRC, the UN Secretary-General in April 1998 was forced to finally withdraw his Investigative Team (UNSGIT) as a result of the DRC government's continued and systematic obstruction of its activities. The UNSGIT was set up

to establish the truth following widespread allegations of massacres from 1993 onwards in the DRC after the government had refused to cooperate with the Commission's own investigation. In its June 1998 report to the UN Security Council, UNSGIT found evidence of systematic killings amounting to crimes against humanity and possible genocide in the country. In October 1998, the DRC and Rwandese governments failed to report to the Security Council on measures undertaken to bring the perpetrators of the massacres to justice as required by the Security Council in July 1998. However, in January 1999 the DRC government responded to the long-standing request of the Commission's Special Rapporteur on the DRC and invited him to visit the country. Amnesty International hopes that this step marks a new era of cooperation with the UN.

Amnesty International's recommendations to the Commission are featured in the main document: "1999 UN Commission on Human Rights - Making human rights work: time to strengthen the special procedures" (AI Index: IOR 41/01/99), pages 17, 18 & 19.

Appeal cases

In the Great Lakes region, total impunity for human rights violations continue to act as a catalyst for renewed cycles of violence. To date, few of perpetrators of human rights abuses have been arrested and brought to justice. The cases below are illustrative of this pattern.

* Burundi - JUSTINE NIYUKULU AND OTHERS - Extrajudicial executions

Reports indicate that on 6 and 7 January 1998, up to 100 people were extrajudicially executed by soldiers in Kizuka zone, Rumonge commune (district) in reprisal for an attack by the Forces pour la défense de la démocratie (FDD), Forces for the Defense of Democracy, the previous day at Busaga colline (administrative unit). Reportedly, soldiers from the military post arrived in the town shooting at fleeing unarmed civilians before systematically searching the houses and surrounding area for people who may have been hiding and proceeded to extrajudicially execute those they found. Many of those killed were reportedly bayoneted to death or stabbed. Among these killed were Justine Niyukulu and her seven-month-old child caught and extrajudicially killed by the soldiers some 50 metres from their home. As they fled Marguerite and her 12 year-old daughter, Violette, had their throats cut. No investigation is known to have been carried out into the extrajudicial executions, and no one is known to have been brought to justice.

Amnesty International calls for:

* a prompt, full and impartial investigation into the alleged extrajudicial executions of Justine Niyukulu and the other persons, for those responsible to be brought to justice and for all reports of extrajudicial executions to be fully and impartially investigated.

* Democratic Republic of Congo - GIRESSE NKOLA AND OTHERS - Extrajudicial executions

Killings of Tutsi and other individuals perceived to be supporters of the Rassemblement congolais pour la démocratie (RCD), Congolese Rally for Democracy, supporters have been reported since early August 1998. When RCD combatants approached Kinshasa around 26 August, the Democratic Republic of Congo (DRC) authorities encouraged ordinary civilians,

through repeated inflammatory broadcasts, to seek out “rebels” hiding in Kinshasa, and all persons believed to be supporting the RCD. In addition to people with Tutsi appearance, mentally ill persons who were rumoured to be disguised rebels were also attacked by government forces and civilians. For example, a mentally ill man who lived at the intersection of Kasai and Usoke streets in Barumbu commune, Kinshasa, was riddled with bullets at the central Kinshasa market on 27 August. Others targeted and in many cases killed included persons with red mud (purportedly not found in and around Kinshasa) on their shoes or boots in and around Kinshasa, and persons in sports clothing. Burned bodies were seen by local fishermen floating in the Congo river, and others were thrown into the Ndjili river. Persons accused of being rebels were reportedly buried alive at Kintambo and Masina districts of Kinshasa. Other killings reportedly took place in Lingwala, Ndjili and Kimbanseke districts. On 4 August, Giresse Nkola and one other student were shot dead by soldiers from Camp Tshatshi military barracks.

Amnesty International calls for:

* a prompt, full and impartial investigations into the alleged extrajudicial executions of Giresse Nkola and others, for those found responsible to be brought to justice, and for all reports of extrajudicial executions to be fully and impartially investigated.

* Rwanda - SIMON KAGANO AND MORE THAN 120 OTHERS - Extrajudicial executions

On 24 January 1998, more than 120 people were reportedly killed by the Rwandese Patriotic Army (RPA) soldiers assisted by local armed Tutsi civilians in several cellules (cells) in Nyabirehe secteur (sector). Some of the victims were killed with bayonets and knives; others had their heads crushed with large stones or rocks. Yet others, mainly women and children, were reportedly burned alive in their homes, including more than 20 people in Gahira cellule. Firearms were apparently not used. A local source described how the victims -particularly the men- were tied with their arms behind their back to prevent movement. They were made to rest their heads on a large stone then they were hit on the head with another large stone. Witnesses who arrived on the scene soon afterwards reported seeing traces of blood and hair on rocks in the area. Simon Kagano, in his fifties, was among the victims who had his head crushed in this way. Rukangagara, a man aged about 75, died from multiple knife injuries. Amnesty International has received the names of more than 50 other victims of this massacre. Soldiers who committed those extrajudicially executions have not been brought to justice.

Amnesty International calls for:

* a prompt, full and impartial investigation into the alleged extrajudicial executions of Simon Kagano and more than 120 others on 24 January 1998, for those found responsible to be brought to justice, and for all reports on extrajudicial executions to be fully and impartially investigated.