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BURUNDI

Insurgency and counter-insurgency perpetuate human rights abuses

I INTRODUCTION

Between December 1997 and September 1998 hundreds of people - many of them unarmed civilians - were killed in Burundi. Thousands more have been forced to leave their homes and are internally displaced or have fled to neighbouring countries, joining the hundreds of thousands of others who are already in exile or are displaced inside Burundi. Soldiers of the Burundian army have deliberately and arbitrarily killed hundreds of civilians - virtually all of them Hutu. Scores of other killings of unarmed civilians have been committed by members of the various armed opposition groups and other militia active in Burundi. Few of those responsible have been arrested and brought to justice.

This report provides an overview of some of the grave human rights abuses which have taken place in Burundi since December 1997. Its main focus is on patterns of extrajudicial executions and other human rights violations by members of the Burundian armed forces as well as killings and other human rights abuses by armed opposition groups in the context of insurgency. It also covers the plight of refugees who have been forced to flee Burundi for their own security. It is far from a complete picture of the human rights situation in Burundi. The cases and the examples included are just a fraction of those about which Amnesty International has received information. The lack of access to some areas of the country combined with factors such as fear of reprisal by victims or survivors have made the gathering and cross-checking of detailed testimony of events very difficult, and many reported cases are therefore not included.

This report is based in part on information gathered during two Amnesty International visits to the region, one to Tanzania in March 1998 and one to Burundi in April and May 1998, as well as other research carried out by Amnesty International. An earlier report, *Burundi: Justice on trial*¹, published on 30 July 1998, covers Amnesty International's concerns in relation to arrest, detention and the administration of justice.

II THE CONTEXT OF ARMED CONFLICT

¹*Burundi: Justice on trial* (AFR 16/13/98) is available in English and French from Amnesty International, International Secretariat, 1 Easton Street, London, WC1X 8DJ, United Kingdom.

Since late 1994, the *Forces pour la défense de la démocratie* (FDD), Forces for the Defence of Democracy, the armed wing of the Hutu-dominated *Conseil National pour la défense de la démocratie* (CNDD), National Council for the Defence of Democracy, have been leading an insurgency against the Tutsi-dominated government forces. The armed wings of other Hutu opposition parties, the *Parti pour la libération du peuple hutu* (PALIPEHUTU), Party for the Liberation of the Hutu People, and the *Front pour la libération nationale* (FROLINA), Front for National Liberation, are also engaged in insurgency against the government. The armed conflict and other political violence have claimed at least 150,000 lives since late 1993, most of them civilian.

The Hutu civilian population has been caught in the middle of the conflict: viewed as supportive of the insurgency by the armed forces, and frequently the victim of reprisals by the armed forces, as well as increasingly the victim of attacks by armed opposition groups. Since the conflict started, civilians have also been the victims of fighting between different armed opposition groups. For example in Bubanza province in July 1997 up to 500 mainly Hutu civilians were reportedly killed by PALIPEHUTU because of their perceived support for the CNDD. Many civilians have had their property looted by both the army and armed opposition groups. The Tutsi civilian population has also been attacked by armed opposition groups, and those in camps for the internally displaced have been particularly vulnerable to abuses.

Since President Buyoya's return to power in July 1996, the country has undergone increased militarization. A large-scale recruitment into the Tutsi-dominated armed forces, including compulsory military service for all first year university students, has taken place. The security forces remain, however, heavily dominated by Tutsi. Former members of Tutsi militia such as the *Sans échec* (Without failure) and *Sans défaite* (Without Defeat) responsible for numerous human rights abuses including political killings have also been recruited into the armed forces.

In addition to the increased conscription, the government has initiated a self-defence program for all civilians. The government claims that the program is to encourage civic responsibility, including training the civilian population to support civil and military authorities in fighting the insurgency through surveillance. While recognizing the right of the government to take steps to protect civilians, Amnesty International is concerned that the self-defence program in itself may lead to further human rights abuses. Although government officials have on several occasions denied that the program involves providing the population with arms, at least in certain areas, including Bujumbura and Bururi Province, the Tutsi civilian population has been trained and armed by the government. In April 1998, the Governor of Rural Bujumbura province admitted that some of the local population had been given guns and grenades.

In February 1998, in response to an attack in broad daylight by the FDD on a north-eastern district of Bujumbura, in which they met little resistance from the armed forces, armed Tutsi self-defence units set up barricades and stopped cars. The

spokesman of the armed forces made a statement on the radio calling on self-defence groups not to use arms against civilians. The self-defence group in question P.A *Puissance d'autodéfense amasekanya* responded by saying that if the army could not protect them they would take action themselves.

The program of civic duties has also in practice allowed the government to closely monitor the population. Local inhabitants have been enrolled into mostly unarmed night-time patrols known as "*la ronde*". The main purpose is officially to report on night-time activities and to arrest any strangers - thus preventing infiltration by armed opposition groups. There are reports that in some areas the patrols are also carried out during the day and inhabitants are required to report all strangers to the local authorities. Failure to do so has reportedly resulted in some cases in arrest on the accusation of collaboration with armed opposition groups.

Both the government and the CNDD have professed commitment to a negotiated political settlement. Even so, both appear intent on continuing the war. A cease-fire agreed upon in June 1998 at negotiations under the chairmanship of former president of Tanzania, Julius Nyerere, had not been implemented by November 1998. The government quickly stated that the cease-fire does not apply to government forces as they have a duty to protect civilians. A breakaway faction of the CNDD² refused to be bound by the cease-fire saying that Léonard Nyangoma, the President of the CNDD, did not have the authority to sign a peace accord. Both immediately prior to the negotiations and since, there has been intensive fighting. PALIPEHUTU, which was not invited to that round of negotiations, also said it did not consider itself to be bound by the cease-fire. Further negotiations took place in October 1998 in which parties continued to debate the origins of the crisis.

²The CNDD was publicly split by internal divisions during 1998. A breakaway faction, the CNDD-FDD, led by Jean Bosco Ndayikengurukiye, dismissed Léonard Nyangoma as president. However, Léonard Nyangoma remains the figurehead of the CNDD. The CNDD-FDD have not been invited to the peace talks.

In addition to the internal armed conflict, the Burundian army and armed opposition groups are also reported to be involved in the armed conflict in the neighbouring Democratic Republic of Congo (DRC) which broke out in August 1998. Although the government of Burundi has repeatedly denied involvement in the conflict, numerous sources in Burundi and in the DRC have reported that Burundian troops participated in the capture of Uvira, Kalemie and other towns in eastern DRC, assisting the Congolese armed opposition group, the *Rassemblement congolais pour la démocratie* (RCD), Congolese Rally for Democracy. The Burundian government is also reported to have lent other support to Rwandese and Ugandan troops, who also support the RCD, including by allowing troops and equipment to transit through Burundi. Amnesty International has received detailed information on hundreds of killings of unarmed civilians, mainly women and children, since the start of the conflict in DRC including by the RCD, the Rwandese security forces and allied groups. The extent to which the Burundian army has been directly involved in these or other killings in the DRC is not yet clear. The government of Burundi has alleged that Burundian armed opposition groups are involved in the conflict in the DRC, in return for the promise of support by President Laurent Désiré Kabila. Amnesty International is continuing to investigate this and other reports of Burundian involvement in the DRC³.

III HUMAN RIGHTS VIOLATIONS COMMITTED BY THE SECURITY FORCES

Extrajudicial executions and deliberate killings

³For further information on human rights abuses in the DRC since the start of the conflict in August 1998, please see Amnesty International reports, *DRC: A long-standing crisis spinning out of control* (AI Index: AFR 62/33/98), 3 September 1998 and *DRC: War against unarmed civilians*, (AI Index: AFR 62/36/98), 25 November 1998.

Large scale killings of unarmed civilians, primarily by government forces, have continued throughout 1998⁴ in violation of international humanitarian law and obligations of the Burundi government under international treaties it has ratified. The killing of persons taking no active part in the conflict in Burundi is in violation of common Article 3 of the 1949 Geneva Conventions which clearly prohibits “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” of all non-combatants. By ratifying Protocol II Additional to the Geneva Conventions, the Burundi government has undertaken obligations to respect and protect certain fundamental guarantees during non-international armed conflicts. These guarantees include the right of all persons not taking a direct part or who have ceased to take part in the hostilities to be treated humanely. Protocol II prohibits violence to life, torture and other human rights violations against such persons. In addition, the killings of unarmed civilians is in violation of the guarantee to the right to life enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights (African Charter), treaties which Burundi voluntarily ratified.

Amnesty International has received numerous reports of killings from the southern provinces of Makamba and Bururi, and from the province of Rural Bujumbura. The majority of killings have taken place in areas of armed conflict, making access to and verification of information particularly difficult. However, several clear patterns emerge.

Most killings by government soldiers of Hutu civilians, appear to take place in reprisal for insurgent activity or killings of soldiers or Tutsi civilians by Hutu-dominated armed opposition groups.

Unarmed civilians have been targeted and killed on the pretext that they were believed to be armed combatants. Scores of unarmed civilians have also been killed because members of the security forces have failed to isolate combatants from civilians. In the majority of cases reported to Amnesty International, it appears that little, if any, attempt is made to make the distinction. They include young children, who were killed individually in circumstances where it was clear that they posed no threat to the lives of soldiers or other civilians.

Scores of other civilians have been killed by government soldiers accusing them of failing to provide information on armed opposition groups, or having in some way

⁴For further information on killings of unarmed civilians in Burundi please refer to previous Amnesty International reports, including, *Burundi: Forced relocation, new patterns of human rights abuses* (AFR 16/19/97), *Burundi: Refugees forced back to danger* (AFR 16/34/96), *Burundi: Leaders are changing but human rights abuses continue unabated* (AFR 16/21/96), *Burundi: Armed groups kill without mercy* (AFR 16/08/96) and *Burundi: Struggle for survival* (AFR 16/07/95).

protected or colluded with them. In some instances, it appears that soldiers were alerted by the local population to the presence of armed opposition groups but were unable or unwilling to engage in direct combat and resorted instead to reprisal attacks on civilians after the combatants had left.

Other civilians have been extrajudicially executed or have "disappeared" and are presumed to have been killed shortly after their arrest by members of the armed forces.

In the majority of cases, members of the security forces who have committed such killings remain unpunished⁵.

Scores of civilians have also been killed or maimed because of the use of indiscriminate weapons such as anti-personnel mines. Government soldiers and combatants of armed opposition groups have also been killed and injured. All parties to the conflict are reported to have used anti-personnel and/or anti-tank mines. Amnesty International supports the campaign to achieve a worldwide ban on anti-personnel mines, as weapons which have indiscriminate effects on civilians and as weapons which are of a nature to cause superfluous injury or unnecessary suffering to those taking an active part in the conflict. The border between Tanzania and Burundi is now heavily mined apparently by the government to prevent incursions by the armed opposition groups it claims are using Tanzania as a base. The presence of mines in the border area also has the effect of preventing some people from fleeing the country and seeking asylum elsewhere. In August 1998, Burundian refugees who did manage to flee to Tanzania said that they had been unable to cross the border for weeks, partly because of the mines.

Many were in very poor physical condition, and some of those arriving had mine-related injuries. They included a number of women and children including one 13 year-old-boy, **Etienne**.

The cases below are illustrative of the patterns outlined above. None are known to have been impartially investigated by the Burundian government.

Killings in Rural Bujumbura Province

On 7 January 1998 fighting is reported to have taken place between the government armed forces and armed opposition groups in Kirekura and Maramvya zone, Mutimbuzi commune during which four soldiers were killed. The remaining government soldiers temporarily withdrew, returning later that day with reinforcements to find that the insurgents had apparently left the area. According to testimonies from survivors, soldiers then reportedly attacked the civilian population and at least 22 civilians were

⁵For further information please refer to *Burundi: Justice on trial* (AI Index: AFR 16/13/98).

extrajudicially executed in reprisal. Those killed include at least three young children, a man called **Gaposh**, a woman called **Munobera**, and two elderly women called **Mponereze** and **Mwemuka**.

At least 72 people, including at least 10 children under the age of 10, and a number of elderly people, are reported to have been killed in Isale commune between 22 February and 30 March 1998 when they failed, or refused, to be moved to a site at Rushubi as soldiers cleared the civilian population from the area. The killings took place in the *collines* (administrative units) of Sagara, Rutegama, Nyarumpongo, Buyimba, Sagara, Kibuye, Nyarukere and Caranka. Soldiers are also reported to have looted and destroyed properties. **Boniface Bankuwunguka**, aged 66, **Jean Ntirwahavuye**, aged 54, a boy aged three, an adolescent, **Callixte**, and at least 21 others, are reported to have been killed in Caranka *colline* by soldiers from nearby military posts on 28 March 1998. On 16 March, **Concilie Habonimana** and her two-year-old child were reportedly killed by soldiers on Sagara *colline*, and two days later in the same area, at least 10 people including four small children and one elderly man were killed by soldiers. All had apparently failed to move out of the area when requested.

On 3 July, government soldiers reportedly killed an elderly woman, **Biratevye**, aged 76, as well as two other women and two children in Mutambu commune. One man, **Gaspard Bandyambona**, is reported to have been killed three days later in the same commune. The motives for the killings are not clear.

On 5 August 1998, soldiers extrajudicially executed two people and destroyed 22 houses in Kirekura, Mutimbuzi commune. Those killed are believed to have been unarmed civilians. The killings followed a military operation the previous day as soldiers searched Kirekura for members of the FDD in the vicinity. Gunfire was exchanged between soldiers and the FDD, who fled, leaving behind some weapons. The majority of the civilian population fled the area, fearing reprisals by the army. A minority, including the two people who were extrajudicially executed, were reluctant to leave their homes and remained in the area.

In late August, soldiers carried out further operations in Kirekura area. Six people, reported to be non-combatants, including one elderly man known as "**Tumbo**" too elderly or vulnerable to flee, were also killed and a further 21 houses destroyed. The *conseiller communal* (local district advisor), of Mutimbuzi commune, **Pascal Birari**, was arrested immediately prior to the military operations by soldiers from the Muramvya and Rubiziri zones of Mutimbuzi commune, who reportedly accused him of providing food or other support to armed opposition groups. The day before his arrest, Pascal Birari had held a meeting with

local inhabitants on the instructions of the communal administrator, and in the absence of soldiers, to encourage them to return to their homes. It appears the accusation may be linked to his call for the population to return. He is reported to have been ill-treated at Gatumba brigade. He was transferred to Mpimba central prison in late September or early October 1998.

On 3 November 1998, soldiers are reported to have killed at least 165 people in Rutovo and Busenge *collines*, Mutambu commune, some 30 kilometres from the capital. Some sources put the figure at much higher. Government and military sources initially

claimed to be unaware of the massacre. However, on 10 November, the Ministry of Defence issued a public statement in which it acknowledged that around 30 people had been killed by members of the armed forces, during a military operation against the FNL and the FDD, and stated that an investigation would be launched. The local administrator of Mutambu commune is reported to have acknowledged that more than 70 people had been killed in Rutuvo. The reasons for the massacre are disputed: according to some sources the killings were motivated by a personal grudge of an officer in the locality; according to others the killings were in reprisal for the theft of five cows by members of the FNL in a neighbouring commune some days previously. Although the exact circumstances of the massacre are not yet clear, the victims are reported to have been shot or bayoneted to death as they followed an instruction to regroup around Busenge military position. The bodies of up to 100 people were reportedly counted and identified near Busenge military post. According to survivors, scores of other bodies were easily visible in nearby plantations. Journalists from the independent radio station Radio Ijambo, and investigators from a Burundian human rights group, ITEKA, who tried to gain access to the area were prevented from doing so by soldiers. However, witnesses, including two people who had lost 17 and 19 relatives in the attack, who had fled to Mutambu town testified that over 100 people they knew had been killed. Amnesty International is continuing to investigate the killings.

Killings in southern Burundi (Bururi and Makamba)

On 6 and 7 January 1998, up to 100 people are reported to have been killed in Kizuka zone, Rumonge commune in reprisal for an attack by the FDD the previous day on a military post at Busaga *colline*, in which at least two soldiers were reportedly killed. Soldiers are reported to have arrived in the town shooting at fleeing unarmed civilians before systematically searching the houses and surrounding area for people who may have been hiding. **Justine Niyukulu** and her seven-month-old child who were killed some 50 metres from their home were amongst those extrajudicially executed. Some of the victims were bayoneted to death. Soldiers reportedly found one woman, called **Marguerite** and her 12-year-old daughter, **Violette**, hiding and cut their throats. On the second day the soldiers were drunk and looting.

On 20 February 1998 at least 100 people who had been regrouped at a military post in the area because of fighting between government soldiers and insurgents in the locality were allowed by the soldiers at the post to return to their fields to harvest crops. However, when they went to the fields, they were shot by soldiers who had accompanied them. **Bagaye, Barampama, Baryuwabo, Emmanuel Bazombanze, Bucumi, Budereye, Habonimana, Hirana, Kaburugutu, Kigo Nikodemu, Mugano**, a woman called **Murayi, Nehemia Ndayiragije, Nijimbere, Nikodemu**, two women, **Terensio Nitunga** and **Nkwirikiye, Gabriel Ntibahiriwe, Nzigo, Ruda, Ruhindanya, Ruhozi**,

and **Sifa** were amongst those killed. Only one person is known to have survived. The motive behind the massacre is not known to Amnesty International. Following the massacre, the *chef de zone* (local area administrative official) who had remained at the military post was also killed. The circumstances of his death are not clear; according to one version he was killed when he asked permission from the soldiers to bury the bodies.

According to another version he was killed when he refused to bury the bodies when asked to do so by soldiers. Three soldiers are reported to have been arrested in connection with the massacre although it is unclear whether the authorities have taken any further judicial action against the killers.

In February 1998, soldiers in Bugana *colline*, Gitaramuka commune in Karuzi province, reportedly summoned the population of the *colline* together before shooting at those who had gathered as requested. A witness stated, "*Everyone was fleeing. I was at home. I took my wife and my five children and we hid in the valley. When I went back, around 9 o'clock at night, our house had been burnt. There were so many bodies. I went back to the valley and found my family and we left without taking anything*". **Martin Uza**, aged 50, **Lisoni Mleke**, **Kasugulu**, all teachers, **Stanley Sindayigaya**, **Sanuveli Ludede**, both businessmen, **Nkukunziza**, **Gashirahamwe**, **Shabani**, **Nzokirantevya** and **Butoto**, aged 14, and their families are all reported to have been killed. Guns, bayonets and grenades were used in the massacre. Houses were burnt, valuables and livestock stolen and crops destroyed. The motive for the attack is not known.

Between 20 and 27 July 1998 13 civilians were reportedly extrajudicially executed by soldiers in Buheka, Karonge and Gikumba, Nyanza lac commune, Makamba province, after fighting in the area between the government army and the FDD. **Jean Ngendabanyikwa**, aged 38, and **Jumaine Seterine**, a woman aged 28, were reportedly bayoneted to death on 20 July 1998. Two children, a boy **Ntahomvukiye** aged 14 and a girl, **Faines Nimpaye**, aged 9 were killed in the same attack. Five others including a woman, **Jacqueline Bukura** and a young girl **Neema**, were shot and killed on 28 July at Gikumba. The killings are reported to have been in reprisal for casualties suffered by the army and to have been carried out by soldiers from Buheka, Kabobo, Mpinga and Mbizi military posts in Nyanza lac commune.

Deaths in detention

Amnesty International has received reports of extrajudicial executions of detainees by members of the armed forces or other law enforcement agencies. The reports are not limited to areas of armed conflict. In the majority of cases, those extrajudicially executed had been arrested on the unsubstantiated allegation of collaboration with armed groups.

For example, **Léopold Baraunyeretse** was shot dead on 31 January 1998, four days after his arrest by soldiers on 27 January 1998 at Bukoro primary school. According to officials who returned the body to the family, he was shot as he tried to escape from Gishubi commune lock up, Gitega Province. No investigation is known to have taken place into this case.

On 19 April 1998, an activist of the Hutu-dominated opposition political party *Front pour la démocratie au Burundi* (FRODEBU), Front for Democracy in Burundi, called **Claude**, was arrested by soldiers at Mubuga, Gitega province. His dead body was found shortly afterwards. No investigation is known to have been carried out into the circumstances of his arrest and subsequent death.

Spéciose Butore, Didace Bukoru, Jean Ndabagamyé, Karidou Mugabonihera and **Anaclet Bambara** were extrajudicially executed on 1 July 1998 while in detention in a police lock-up in Rwisabi zone, Mutaho commune, Gitega province. They were arrested by local administration officials on or around 26 June in Nyabisaka *colline*, Gitega Province, and accused of collaboration with armed opposition groups. Another detainee, **Bigirimana**, who was arrested on 21 May, at Buraza is reported to have been killed in a commune lock-up in Bukirasazi commune, Gitega province on or around 30 June. The reason for his arrest is not known to Amnesty International. Amnesty International has raised these cases with the government of Burundi on several occasions but has yet to receive a response or confirmation that the cases are being investigated.

The body of, a man, **Pascal**, also known as Bidiga, was found close to Kirere military post, Rutegama commune, Muramvya Province hours after he had been arrested by soldiers and taken to the military post in late October or early November 1998. The exact date of his arrest is not known to Amnesty International. No investigation is known to have taken place into the circumstances of his arrest and death. Pascal was arrested at home; no reason is reported to have been given for his arrest.

The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions which prohibit extra-legal, arbitrary and summary executions under any circumstances, including situations of internal armed conflict, require the Burundi authorities to prevent extrajudicial executions and to institute a thorough, prompt and impartial investigation into all suspected cases of extrajudicial executions. The Burundi authorities are also required to “ensure that all persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under its jurisdiction are brought to justice”.

Arrests and torture

Scores of people have been arbitrarily and illegally detained after being accused of collaboration with armed opposition groups. Many have been ill-treated and some have "disappeared" or have been extrajudicially executed in detention or shortly after arrest⁶. Many testimonies indicate that wealthy Hutu have been particularly vulnerable to arbitrary arrest on the accusation of financially supporting armed opposition groups.

Torture and ill-treatment of detainees is rife in Burundi, particularly in police and military custody. People who have been accused of collaboration with armed opposition groups are particularly at risk of torture or of "disappearance". According to Amnesty International's information such accusations are often made arbitrarily. Anyone having a disagreement with the local authorities may easily find him or herself arrested.

Recent cases brought to the attention of Amnesty International include those of **Appolinaire Nsengiyuma**, **Salvatore Nsavyimana** and **Serge Bizimana** who were arrested by soldiers, accompanied by civilians, at their homes in the Kinama and Kamenge districts of Bujumbura on 31 August 1998. They were accused of collaboration with armed opposition groups. Serge Bizimana was accused of distributing CNDD tracts in Bujumbura. They were all severely ill-treated at the military barracks of the *Troisième bataillon d'intervention* (Third Intervention Battalion) in Kamenge. Both Appolinaire Nsengiyuma and Salvatore Nsavyimana were hospitalized on or around 9 September as a result of their torture. Serge Bizimana, who was reportedly severely beaten on his head, was transferred to the *Brigade spéciale de recherche* (BSR), Special Investigative Unit, (responsible to the Ministry of Defence) on 12 September. In late October 1998, he was still detained without charge at the BSR.

In many areas, people have stated that they are afraid to sleep at home, often because they fear being arrested at night. One male refugee, aged 25, interviewed in Lukole refugee camp, Ngara, Tanzania, said he had fled after a number of arrests in his home area of Mukenke zone, Bwambarangwe commune of Kirundo province in January 1998. Between 8 and 12 January around 25 young people were arrested by soldiers, after being denounced as having links with armed opposition groups. The refugee, like many other refugees interviewed by Amnesty International, fled because he was afraid he would be arrested too, because on the basis of his ethnic origin he would be accused of supporting Hutu-dominated armed opposition groups.

Amnesty International has also received reports of fleeing Burundians being forced to carry out labour in the forest along the border with Tanzania. For example, in March 1998, Amnesty International delegates in Tanzania received information on two

⁶Further information on these concerns is contained in *Burundi: Justice on trial* (AFR 16/13/98).

Burundians who had been caught by Burundian soldiers in the border area as they fled to Tanzania and taken to a military post at Kavumwaye. According to their testimony, they were forced to chop wood and carry out other tasks for the soldiers. They had subsequently managed to escape and continue to Tanzania. They claimed that an unspecified number of others were still held at the military post; their fate is not known to Amnesty International.

Burundi has undertaken obligations to prohibit torture under the ICCPR, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the African Charter. Under the CAT, the Burundi authorities have an obligation “to take effective legislative, administrative, judicial or other measures to prevent acts of torture”, to institute a prompt and impartial investigation into all allegations of torture and to prosecute the perpetrators of torture. The Burundi authorities are failing to comply with these international obligations.

Rape

Amnesty International has received numerous reports of the rape of women and young girls by members of the Burundian security forces. Armed opposition groups are also reported to have carried out rape. Those raped appear to be selected at random. So far no effective measures are known to have been taken against such abuses by either the government or leaders of armed opposition groups. The majority of cases appear to remain uninvestigated.

Many cases of rape by government soldiers are reported to have taken place in or near regroupment camps, or during counter-insurgency operations. According to some sources, in the month of March 1998 alone, hundreds of women and young girls, including children under the age of 10, were raped in regroupment camps in Bubanza.

On 8 March 1998 three young women are reported to have been raped at the Musigati military position, Nyarysange, Bubanza province. In May 1998, a 20-year-old woman on her way to Bubanza market was raped by three soldiers. In June 1998 in Musigati, a 15 year old girl is reported to have been raped by a soldier, while three other soldiers prevented a witness from intervening. The soldiers also reportedly stole a sum of 7,000 Burundian francs from the girl. The family reported the rape and theft to the communal administrator. The soldier gave back the money but no judicial action against him is known to have been taken. In July 1998, an 18-year-old woman was raped at the Mugongo regroupment site by seven soldiers. She died from her injuries one week later. No investigation is known to have taken place.

On the morning of 7 March 1998, soldiers at Gasi *colline*, in Rural Bujumbura, robbed, beat, raped and killed two women aged in their mid-twenties.

Rape by members of the security forces of women and girls in regroupment camps amounts to torture in violation of the Convention against Torture. As common Article 3 of the Geneva Convention prohibits cruel treatment and torture and “outrages upon personal dignity, in particular humiliating and degrading treatment”, rape committed by members of the security forces and armed opposition groups in the context of the armed conflict amounts to a grave breach of international humanitarian law.

Restrictions on movement - regrouping the population

From February 1996, the rural Hutu population in areas of conflict was forcibly rounded up by the armed forces and relocated into camps. By the end of 1996, up to 500,000 Hutu were reported to have been regrouped, although the official government figure was much lower. Those who failed to leave their homes risked being killed as suspected members of armed opposition groups and hundreds of men, women and children were killed in the round-up operations. Anyone left in the area was considered to be linked to armed opposition groups and therefore legitimate military targets during counter-insurgency operations or combat. Human rights violations including "disappearances" and rape have been reported from within the camps. Although the “regroupment” was ostensibly for reasons of protection, it is clear that it was a military strategy aimed at keeping tighter control over the Hutu population and removing potential support for the Hutu-dominated armed opposition groups. These concerns were documented in a report *Burundi: Forcible relocation, New patterns of human rights abuses* published by Amnesty International in July 1997.

While some camps have now been closed, Amnesty International remains concerned at the continued existence of regroupment camps, from where human rights violations continue to be reported, and at the continued forcible relocation of the local population in some parts of the country during which further violations have taken place. Furthermore, while regroupment appears to have had some success as a military strategy, the effect on the country has been devastating. In addition to the hundreds of people who have been killed during regroupment operations, houses have been destroyed, crops burnt, and farming activities greatly reduced and in some cases abandoned.

In some areas of northern Burundi, where there is currently no armed conflict, camps have now been closed and the population has been allowed to return to their homes, or has been moved to smaller sites nearer to their homes. However, in some cases, camps have been forcibly closed and the population forced home despite insecurity, bringing into question the government’s claim that the camps were set up for the protection of the population. In other areas, such as the provinces of Bubanza, Rural Bujumbura, Bururi and Makamba, where there is continued armed conflict, much of the population remains displaced, "regrouped" at or near military posts. In May 1998, a

local administrator in Bubanza province is reported to have admitted that approximately 80,000 people in two communes had been regrouped to prevent collaboration with the rebellion. Some recent regroupments, including some of those in Rural Bujumbura province have tended to be localised and short-term.

At least in some cases, the population has sought regroupment by the armed forces as evacuation from a conflict zone has enabled them to escape violence, or harassment by armed opposition groups. However, in other testimonies received by Amnesty International, civilians have continued to state that they are obliged to move to the camps, because failure to do so would result in them being killed by the armed forces. There are consistent reports from regroupment camps of forced labour, in particular, of male inhabitants being forced to accompany soldiers on military operations, to carry ammunition or provisions, or in some cases to take an active part in the operation, sometimes by walking in front of soldiers as human shields. Reports of rape of women inhabitants of the camps by soldiers are dealt with in the previous section of this report.

Conditions in the camps continue to be appalling with high levels of disease and malnutrition. Thousands of people are reported to be severely malnourished, in some cases literally starving mainly as a result of their confinement in the camps. In May 1998, the government spokesperson and Minister of Communication denied on Rwandese radio reports by humanitarian organizations that 10 people were dying every day in regroupment camps in Bubanza and Musigati communes. He accused some, unnamed, non-governmental organizations of sending out alarming reports to justify their existence. A number of *regroupés* recently interviewed by local organizations in Bubanza province said that they could not tend their crops because they feared that if they were found in the evacuated area they would be shot by soldiers as suspected combatants. While some are able to get small jobs which enable them to buy some food, the majority are believed to be suffering from serious malnutrition, and other life-threatening diseases such as tuberculosis and malaria which are prevalent in the camps. Many recent refugees arriving in Tanzania from southern Burundi are severely malnourished. Some have claimed that this is because they have been confined to camps near military posts for weeks and months in poor conditions and without access to adequate food.

Between June and August 1998, the population of Mutambu commune was regrouped by the administrator of the commune and local military, because of the presence of armed opposition combatants in the area. In mid-July the population was told that it could go home but in early August was again regrouped into three sites. Conditions remain poor with little shelter. Movement is severely restricted; the population is reportedly not allowed to return to their homes during the day unless accompanied by soldiers, and thus is unable to harvest crops. Amnesty International has received the names of 15 people who are reported to have been "fined" by soldiers because they tried to leave the sites without authorization.

The forcible relocation violates a number of international human rights treaties which Burundi has ratified, including the ICCPR. Article 4 of the ICCPR allows for forced displacement only in time of public emergency which threatens the life of the nation. The principle is that there must be an exceptional threat and that a state of emergency must be declared. The Burundian government has not declared a state of emergency. Fundamental human rights principles should still be adhered to even in cases of national emergency. The killings which have occurred during regroupment and cases of ill-treatment and rape violate Articles 6 and 7 of the ICCPR. Under the African Charter, which Burundi ratified in August 1989, the authorities are obliged to protect the rights enshrined in that treaty including the right to life, the prohibition of torture, cruel, inhuman or degrading treatment and the right to freedom of movement and residence within the borders of a state. Forced displacement of a civilian population to obtain a more effective control of an ethnic group is prohibited by Article 17 of 1977 Protocol II of the Geneva Conventions.

IV KILLINGS AND OTHER HUMAN RIGHTS ABUSES BY ARMED OPPOSITION GROUPS

Armed opposition groups have been responsible for killing scores of unarmed civilians since December 1997. At least 50 people are reported to have been killed by armed opposition groups in the month of October alone, in an attack on a camp for the displaced in Bubanza and in an attack near Bujumbura. Both attacks were attributed by government and local sources to the FNL. In many cases killings of unarmed civilians by armed opposition groups appear to be reprisal or punishment killings of alleged collaborators or potential informants of the government. Both Hutu and Tutsi civilians have been killed. Armed opposition groups have also reportedly been responsible for forcible recruitment, including of children, rape and hostage-taking. They have also reportedly taken part in other criminal acts including looting and extortion.

The human rights abuses by members of armed opposition groups against persons taking no active part in the conflict are in violation of common Article 3 of the Geneva Conventions which prohibits killing, cruel treatment and torture and taking of hostages of non-combatants. The provisions of common Article 3 apply equally to "members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause". Therefore the killing of members of the government security forces who are captured and taken prisoners is also prohibited.

In some cases - in particular looting - it is not clear whether those responsible are members of armed opposition groups, or simply criminal gangs. It is also sometimes not clear which of the armed opposition groups fighting in Burundi is responsible for a particular attack or human rights abuse. There are consistent reports of collaboration on

the ground between the different Burundian armed opposition groups as well as of collaboration with the former Rwandese government forces known as the ex-FAR and *Interahamwe* militia. Although the CNDD has publicly denied cooperating with PALIPEHUTU and other armed opposition groups, it is clear that, at least in some cases, joint operations are undertaken. The CNDD has categorically denied collaborating with members of the ex-FAR and *Interahamwe*. However, the United Nations Commission of Inquiry into arms transfers to the former Rwandese government forces claimed to have documentation proving collaboration between the ex-FAR and the CNDD-FDD⁷. A senior member of PALIPEHUTU told Amnesty International representatives that ex-FAR and *Interahamwe* members had taken part in PALIPEHUTU operations but would not admit to any formal alliance.

It is rare that the army or armed opposition groups acknowledge responsibility for particular human rights abuses. In the majority of cases, both have mutually accused each other of being responsible for killings and other human rights abuses.

On 1 January 1998, an attack, led by the FDD, on Gakumba military camp, close to Bujumbura airport, was followed by large scale killings of civilians. Both the army and armed opposition groups denied responsibility for the killings of the civilians. The killings were attributed to the FDD by the government of Burundi and others in Burundi. However, reports received by Amnesty International from a variety of sources suggest that both government forces and armed opposition groups were involved in killings of civilians. Armed opposition groups killed a number of civilians after the attack on Gakumba military camp. After the attack, in which an unknown number of soldiers were killed, members of the armed forces carried out deliberate reprisal killings. Further killings by soldiers were carried out subsequently during a counter-insurgency operation against members of the FDD.

The FDD are reported to have killed as many as 42 civilians including at least eight children and five women in the Rukaramu area as they left Gakumba military camp. Some of those reported to have been killed are **Pascal Ntibanyiha**, a man, **Karikumutima**, **Ndirkuriyo** and his wife, a woman, **Madame Ngendakumana** and her child. According to some local independent sources who investigated the killings, the motive behind the killings appears to have been to prevent members of the local population alerting nearby military posts to the presence of the insurgents as they withdrew.

⁷Letter to UN Secretary General publishing interim findings, reference, S/198/777, 19 August 1998

Around 11am, military reinforcements arrived, more fighting took place and the insurgents withdrew, crossing to Mpanda, Gihanga commune and Mutimbuzi commune. As soldiers returned towards their bases, they carried out reprisal killings of people who had remained or returned to their homes in Kigwati including a woman called **Evangeline**, who had lived in Rwanda. Soldiers said that the combatants, had spoken Kinyarwanda, the national language of Rwanda and reportedly shot and killed her, accusing her of cooking for the insurgents. **Dieudonné Nduwimana**, who was accused by the soldiers of having trained with the combatants was also killed and a man **Kibwa** was shot and killed as he fled. Soldiers, who were apparently drinking beer, then started to shoot indiscriminately into houses, claiming "rebels" were hiding in the houses. One man called "**Kapa**" was reportedly tied to a tree and shot for making a sarcastic remark suggesting the soldiers were incompetent. Soldiers are also reported to have bayoneted to death eight civilians who were fleeing towards Mubone commune.

The area affected by the killings was closed off for some days preventing humanitarian and other organizations from investigating the killings and potentially allowing for evidence to be removed.

Camps for the internally displaced, predominantly inhabited by Tutsi, continue to be vulnerable to attack by armed opposition groups. On the night of 12 to 13 August 1998, an armed opposition group attacked Nabubu displaced camp in Bubanza province. The motive behind the attack appears to have been to gain provisions. Five civilians, four of whom were unarmed, were killed. The combatants reportedly attacked the camp around midnight, killing one person living on the outskirts of the camp. Two other people in the camp, who are not known to have been armed, were also killed. Around 43 homes were reportedly burnt and others looted. Following the attack on the camp, the combatants descended into Bubanza town and looted shops in and around the market place, killing two civilians who are believed to have been unarmed. Many inhabitants in the town are reported to have been armed. At least one man was shot and wounded after he fired on the combatants to prevent them from looting his property. Although there is a military camp nearby and the attack lasted for two hours, soldiers reportedly failed to intervene.

Armed opposition groups are reported to be responsible for ill-treatment and killings of civilians suspected or accused of collaboration with the security forces, or failure to cooperate with the particular group. On 28 January 1998, five people were reportedly killed by FDD combatants during an attack on Kizuka zone, Rumonge commune, Bururi province. They had reportedly refused to hand over money to the combatants. In July 1998, two local administrators in Mutambu and Mubone communes, Rural Bujumbura province were killed by members of the FNL. The victims were reportedly targeted on suspicion of collaborating with the armed forces.

The FDD and other armed opposition groups have reportedly mutilated their victims. For example, in April 1998, at least 20 people in Rural Bujumbura province are reported to have had their ears cut off, apparently to intimidate would-be informants of the army. In late July, during fighting in Kayanza which forced around 13,000 people to leave their homes at least six people are reported to have been killed, and some others had their noses and ears cut off.

In some parts of the country the CNDD-FDD are known to have created "popular tribunals" to try civilians. In some cases the tribunals have amounted to little more than mob justice. On 19 November 1997, eight people are reported to have been summarily executed in Kirekura, Mutimbuzi commune, Bujumbura Rural, after being accused of passing information to the local military or government authorities. Amnesty International is also concerned that captured soldiers have been sentenced to death by popular tribunals and summarily executed.

The CNDD-FDD, PALIPEHUTU and FROLINA have defined military and administrative command structures. Amnesty International has on several occasions questioned senior representatives of these groups about whether and how they tackle the issue of human rights abuses committed by members of their armed wings or supporters. Although those representatives who have responded have claimed that those responsible for human rights abuses are investigated and punished, they have not provided details.

V REFUGEES

Decades of violence and gross human rights violations have caused massive population displacement. In addition to the approximately 600,000 people who are now reported to be internally displaced, there are also over 300,000 Burundian refugees in neighbouring countries in the Great Lakes region.

The principles of refugee protection have been severely undermined in the Great Lakes region, and elsewhere in the last few years. The most dramatic examples are perhaps the mass *refoulement* of hundreds of thousands of Rwandese refugees from the Democratic Republic of Congo (DRC) and Tanzania and the forcible mass expulsion of thousands of Burundian refugees from the DRC in late 1996. Many of these refugees are concerned that their protection is not guaranteed in their country of asylum and that they may be forcibly returned to Burundi⁸. Thousands of Burundian refugees have been

⁸For further information on the erosion of principles of refugee protection in the Great Lakes region please also see other Amnesty International reports including, *DRC: Deadly alliances in Congolese forests* (AFR 62/33/97, 3 December 1997), *In search of safety: The forcibly displaced and human rights in Africa* (AFR 01/05/97, 20 June 1997), *Rwanda: Human rights overlooked in mass repatriation* (AFR 47/02/97, January 1997), *Great Lakes Region: Still in need of protection:*

forcibly returned to Burundi from neighbouring countries in recent years. Within the last 12 months, Burundian refugees in Tanzania, Rwanda, Kenya and the DRC have been forcibly returned to Burundi, threatened with expulsion, or coerced to return, despite the fact that many of them are likely to be at serious risk of human rights abuses on their return.

The government of Burundi has also taken part in military operations to forcibly repatriate Burundian refugees from the DRC and in October 1998 forcibly repatriated five Congolese refugees. The five were arrested on around 21 October by members of the Burundian security forces and forcibly repatriated three days later. All were closely associated with a former governor of South Kivu, in eastern DRC who had himself recently fled the country. They were handed over to the RCD and taken to Bukavu for questioning. Their current well being or whereabouts are unconfirmed.

Returning home - the role of UNHCR

Every refugee has a right to choose to return home, whatever the risks he or she may face on their return, and thousands of Burundian refugees have taken the decision to return home, despite the risks they could face on their return. The Burundian government has made repeated calls for Burundian refugees to return, claiming they can do so in safety. In 1997 according to some sources up to 56,000 Burundian refugees returned home spontaneously from Tanzania⁹. There were many reports of ill-treatment, including rape, of refugees by members of the Tanzanian security forces as the refugees moved towards the border. In late 1997, the United Nations High Commissioner for Refugees (UNHCR) stated that in response to these allegations of human rights violations against refugees it would facilitate - as opposed to promote - the voluntary return of Burundian refugees on three conditions:

- there would not have been any "major" security incidents in the province in Burundi to which the refugees were returning, and the province could be deemed "relatively safe";
- there would be no policy of regroupment in the province;
- the UNHCR would have access to areas to which refugees were returning.

Repatriation, refoulement and the safety of refugees and the internally displaced (AFR 02/07/97, 24 January 1997), *Burundi: Refugees forced back to danger* (AFR 16/34/96, 20 November 1996) and *Rwanda and Burundi: The return home: rumours and realities* (AFR 02/10/96, 20 February 1996).

⁹Although it is clear that a substantial number of refugees did spontaneously return during 1997, many estimates put the figure of returns much lower than the figures advanced by the government of Burundi and UNHCR Burundi.

Amnesty International recognizes that the assistance provided by the UNHCR to refugees returning home may have prevented abuses being carried out against returning refugees,

who are vulnerable outside their camps in Tanzania, and who have potentially lost their homes in Burundi. However, the facilitation of repatriation of those refugees who choose to return home whatever the risk should not become an incremental step towards the promotion of voluntary repatriation.

Amnesty International believes that voluntary repatriation should not be promoted unless there has been a significant and durable change in the situation which caused flight. Amnesty International is concerned that if these three conditions were to be the standards which are applied in any future repatriation agreement, the principles of voluntary return would be undermined. In April 1998 a voluntary repatriation agreement was signed between the DRC, Burundi and UNHCR and a number of tripartite meetings on repatriation between Tanzania, Burundi and UNHCR were held in 1998.

The limited UNHCR presence in Burundi means that it is logistically impossible for the agency to carry out sustained monitoring of the reintegration of returnees. In some cases, it appears that returnees do not, in any case, want to be known as returnees,

for fear this may cause them problems. Furthermore, as the root causes of the majority of the human rights abuses, and internal conflict in Burundi, have not been addressed, the security situation in Burundi continues to be volatile. The concept of an area being "relatively safe" appears therefore to be politically expedient rather than meaningful. The Burundian government has repeatedly accused Burundian armed opposition groups of operating from bases in Tanzania. Some refugees told Amnesty International that they were afraid that simply because they had been in Tanzania, they would be potentially suspected of links with armed opposition groups. Such fears appeared to be heightened by reports that refugees who had returned to Burundi had once again fled to Tanzania shortly afterwards, because they were treated with suspicion.

According to various sources in Burundi, there is a certain mistrust of returnees, although this does not necessarily translate into human rights abuses. Some sources revealed that returnees were apparently initially closely watched but in the vast majority of cases, appeared to have been subsequently accepted.

Burundian refugees in the Republic of Tanzania

In November 1998, approximately 260,000 Burundian refugees remained in Tanzania in camps near the Burundian border. Refugees have continued to arrive throughout the year, primarily fleeing from the southern provinces of Makamba and Bururi into the Kigoma region of Tanzania. More refugees have also arrived from Kirundo and Ngozi provinces in the north.

In the majority of cases, those fleeing from the south appear to have fled as a direct result either of the ongoing armed conflict, general insecurity or killings carried out by the security forces. Refugees arriving from the northern provinces of Kirundo and Ngozi in the main stated that they had fled because of intimidation and harassment by members of the security forces, following cases of arbitrary arrest and possible "disappearances" in their home areas.

In August 1998, approximately 100 refugees a day arrived in Kigoma from Makamba province. Many were in very poor health and suffering from severe

malnutrition. They said they had been forced out of their villages by soldiers and had fled fearing killings, but had been initially unable to cross the border which was heavily mined. They had been hiding in the bush. One humanitarian worker in Tanzania said it looked as if entire villages had fled. Many of the arrivals, including some women and children, had mine injuries or bullet wounds.

The government of Burundi has consistently claimed that refugee camps in northwestern Tanzania are a threat to the security of Burundi, and include members of armed opposition groups. The camps are close to the border. It has also accused the government of Tanzania of harbouring and training armed opposition groups on its territory. The government of Tanzania strongly denied these accusations. It initially rejected claims that there was any presence of Burundian armed opposition groups in or around the camps, but the authorities have since late 1997 taken a number of steps to investigate such allegations and the civilian nature of the camps. There have been a number of arrests of refugees or other Burundian nationals and at least 40 people have been removed from the camps, 15 of whom have been charged and tried under Tanzanian law with subversive activities. In October 1998, 11 of the group were convicted of illicit training and sentenced to four years' imprisonment. Three others were found by the judge to be minors and were sentenced to six strokes (caning) before being released. Amnesty International considers this punishment to be a form of torture and cruel, inhuman or degrading treatment forbidden by international law. All had been arrested while undertaking physical exercise and accused of unlawful drilling (military training). The group was reportedly preparing to return to Burundi for full training with FROLINA. They did not have lawyers during their trial. The very limited police force in the camps has been strengthened by the addition of 400 Tanzanian police officers, given additional training by UNHCR, responsible for helping to maintain law and order and monitoring activity in the camps to ensure they remain civilian.

Amnesty International stresses the civilian nature of refugee camps, and reiterates the responsibility of states to remove armed elements from refugee camps. However, any such measures to separate armed elements should be in full compliance with that state's human rights obligations and should in no way result in the violation of the rights of refugees.

In late 1997 and early 1998, the Tanzanian authorities forced hundreds of Burundian nationals living outside camps to move into the camps. These so called "round-up" operations uprooted families who had, in many cases, been living in Tanzania since 1972 and who had integrated into local communities. In September 1997 at least 4,000 people were arrested around Kigoma. *Approximately 1,000 refugees, mainly Burundians, were also arrested in Ngara.* Some of the refugees were ill-treated during the operations.

One Burundian woman, aged 23, who was born in Tanzania and who had never lived in Burundi, told Amnesty International that she was rounded up in Kibundo town where she was living with her husband and two children. According to her testimony the announcement that Burundians were to go to the camps was made in November 1997. They were not told why. Some of the local authorities, known as *Nyumba Kumi* leaders¹⁰, demanded money in exchange for protection from being sent to the camps. The woman and her family failed to pay the 10,000 Tanzanian shillings demanded by her *Nyumba Kumi* leader and they were forced into a camp in January 1998. Another Burundian refugee interviewed in Mtendeli camp had been living in Katanga village since fleeing Burundi in October 1993. She claimed that soldiers beat those who refused to go to the camp and said *"It was like being a refugee for a second time. We were running from our homes leaving our things behind in panic."* They were unable to harvest their crops before leaving.

The presence of large numbers of refugees is continuing to cause tension with local communities. The security, economy and environment of Tanzania have been affected. Resentment continues to be expressed that the refugees - unlike the local population, many of whom are subsistence farmers - benefit from aid from the international community. Particularly around Ngara, in the Kagera region, banditry is blamed on Rwandese and Burundian refugees. Roads, already damaged by heavy rains, have been further damaged by the heavy vehicles used by UNHCR and other humanitarian agencies to supply food and other aid to the camps.

¹⁰Kiswahili for "10 houses", the "10 house cell" system which is the smallest administrative unit in Tanzania, composed of 10 houses, each with a leader.

In finding solutions to the long-term protection of large numbers of refugees, consideration should be given not only to ways in which other countries can share Tanzania's refugee burden¹¹ but also to how local communities, and if necessary state infrastructures, may benefit or themselves be assisted. Failure to provide sufficient financial support may result in pressure on the authorities to return the refugees despite the serious human rights situation in Burundi. Efforts should be made to move camps away from the border, thus implementing international standards for protection of refugees, and removing any grounds the criticisms. This too requires firm financial commitment.

Burundian refugees in the Democratic Republic of Congo

Since August 1998, hundreds of Burundian refugees have returned to Burundi from eastern DRC, fleeing the armed conflict there. Hundreds of other refugees have been forcibly returned during the year.

At least 200 Burundian and at least 140 Rwandese refugees were forced out of the DRC in early April 1998. Most of the Burundian refugees are reported to have been new arrivals, who had fled from the bordering Burundian provinces of Bubanza, Cibitoke and Rural Bujumbura since the beginning of 1998. The refoulement operation was carried out by soldiers of the DRC's *Forces armées congolaises* (FAC), Congolese armed forces, who commandeered trucks from humanitarian organizations to transport the refugees to the border. Around 40 Rwandese refugees and four Congolese nationals who were also expelled to Burundi have since been returned to DRC.

Up to 2,000 Burundi and Rwandese refugees were forcibly returned to Burundi and at least 745 Rwandese refugees were forcibly returned to Rwanda from South-Kivu province in eastern DRC in November 1997 in what appeared to be a coordinated military operation by troops from the three countries.

In May 1998 a tripartite voluntary repatriation agreement was signed between the governments of Burundi and the DRC, and the UNHCR. Both governments invoked security issues as being of prime concern, claiming that the refugees included many combatants. The majority of returnees so far, including those expelled during joint operations, have been women and children. In 1996, the FDD reportedly had bases in

¹¹EXCOM Conclusion No 22 (1981) states, "...A mass influx may place unduly heavy burdens on certain countries... States *shall*, within the framework of international solidarity and burden sharing, take all necessary measures to assist, at their request, States which have admitted asylum seekers in large-scale influx situations".

eastern DRC and was supported by the then Zairian authorities. Following the 1996 conflict and coming to power of President Laurent-Désiré Kabila, refugees were forced out and the FDD lost their bases. The extent to which there is still a presence of Burundian armed opposition groups in DRC remains unclear.

The "voluntary return" of Burundian refugees from Rwanda

"Au Rwanda c'est la guerre, au Burundi c'est la guerre. Si on meurt au moins ça sera au Burundi".

"There's war in Rwanda. There's war in Burundi. If we die at least it will be in Burundi".

The majority of Burundian refugees in Rwanda have now returned to Burundi with the assistance of the UNHCR. Approximately 500 refugees remain.

In April 1998, Amnesty International delegates interviewed a number of Burundian returnees from Rwanda, in Gatumba transit camp, Rural Bujumbura province. All had taken the decision to return to Burundi with the assistance of UNHCR. The majority appeared ill-informed about the human rights situation in Burundi before their return, although the provision of accurate up-to-date information on the prevailing situation in the country to which a refugee is to return is an essential part of any voluntary repatriation agreement. Interviews with these returnees and other research by Amnesty International over the last three years, showed that, in many cases, unfavourable factors in the host country, such as Rwanda, had forced the refugees to return home. These include ill-treatment in the camps by members of the Rwandese security forces, pressure and intimidation from Burundian and Rwandese authorities, harsh conditions in the camps and restrictions on movement.

According to the returnees' testimony, the conditions in the camps in Rwanda push people to return home: refugees are restricted to the camps and their immediate neighbourhood, with no access to schools or adequate health care. Refugees are not allowed to receive visits and are frequently ill-treated by Rwandese soldiers. Refugees found with food other than their rations are reportedly beaten. One woman, whose identity is known to Amnesty International was beaten in January 1998 after she was found with potatoes. Another man decided to return to Burundi after being beaten and denied medical care by soldiers who found him selling banana beer. One returnee who had previously left Burundi in 1972 with his family when he was one year old told Amnesty International in Gatumba that he had decided to return to Burundi because of ill-treatment of refugees in the camps and threats by Rwandese soldiers.

Other pressures have also been exerted on the refugees. In early 1997 a joint Rwandese and Burundian delegation visited the camps to encourage repatriation. In August 1997 the first repatriation took place. The local Rwandese authorities told the refugees that those who did not want to return would be considered as having taken part in the 1993 massacres.

VI CONCLUSION

The patterns of human rights violations perpetrated by government forces in the context of the counter-insurgency suggest that in general terms, the majority Hutu population is considered as suspect, and as such is deliberately and arbitrarily targeted by members of the Burundian security forces. This suspicion has resulted in widespread human rights violations against the Hutu civilian population including the most vulnerable groups who were taking no part in the hostilities, including extrajudicial executions, restrictions on movement, indiscriminate and disproportionate use of force, "disappearances" and arbitrary arrests, unlawful detentions and torture. Armed opposition groups are also responsible for significant numbers of serious human rights abuses against unarmed civilians.

Many of the human rights abuses occurring in Burundi now are linked, in one way or another, to the ongoing armed conflict in the country. Any settlement should explicitly seek ways to protect human rights, including by tackling the crucial areas of reform of the army and judiciary. Without this there can be no end to the human rights crisis.

It is essential that the international community, through intergovernmental organizations, and other technical and diplomatic initiatives, continues to seek solutions to the crisis which safeguard human rights. The international community must also help document and publicly condemn on-going human rights abuses - whatever the identity of the perpetrators and assist the government of Burundi in bringing perpetrators of human rights abuses to justice. Unless those responsible for human rights violations and other crimes are brought to justice there will be no end to the human rights crisis.

The principles of voluntary repatriation should be protected at all times. The international community should also assist the government in the essential reforms of the security forces and the judiciary.

VII RECOMMENDATIONS

The deliberate killing of unarmed civilians taking no active part in armed conflict by both government security forces and armed opposition groups represents a grave violation of the basic principles of humanitarian law, as laid out in Common Article 3 of the 1949 Geneva Conventions. Amnesty International is appealing, again, to all parties to the conflict to adhere to these principles. Government and military authorities, as well as leaders of armed opposition groups should make every effort to ensure that indiscriminate killings and other human rights abuses are not allowed under any circumstances. It is essential that perpetrators of human rights violations be brought to justice, in accordance with international standards of fairness.

To the government of Burundi

- comply with its obligations under the ICCPR, the Convention against Torture and the African Charter, international humanitarian law including common Article 3 of the Geneva Conventions and Protocol II and with the requirements of other international standards on human rights;
- issue strict orders preventing further deliberate killings of unarmed civilians or disproportionate or indiscriminate attacks on civilians;
- publicly and officially condemn extrajudicial executions, at the highest level, whenever they occur;
- ensure a strict chain of command in the armed forces and ensure that accountability is enforced;
- carry out thorough and independent investigations into reports of extrajudicial executions, make public the results of these investigations and ensure that individuals found responsible for ordering or carrying out extrajudicial executions are immediately suspended from their duties AND brought to justice. Amnesty International welcomes the fact that a small number of members of the security forces have been tried for their part in serious human rights violations, but is concerned that such cases are the exception rather than the rule and that the majority of allegations and violations remain uninvestigated;
- undertake prompt and thorough investigations into cases of reported "disappearances" and inform the families of the "disappeared" of the progress and outcome of such investigations;
- allow national and international human rights and humanitarian organizations access to all civilian and military detention centres. The authorities should keep systematic records of the whereabouts of detainees, including their transfer from one detention centre to another, to enable verification of the whereabouts of detainees;
- ensure that no detainees are held in illegal detention centres, and bring to justice any person found to have ordered or condoned such detentions;
- take immediate steps to investigate and end the widespread practice of ill-treatment and torture in detention, and bring to justice those found responsible;

- ensure that all internally displaced people in camps, whether in regroupment camps or camps for *déplacés*, do not have undue restrictions placed on their freedom of movement and are treated humanely and with respect, and protected from human rights violations such as arbitrary arrest, "disappearance", ill-treatment or torture and extrajudicial execution;
- make it clear to the security forces that rape and sexual abuse constitute forms of torture which violate international human rights standards, as well as international humanitarian law, and that they will not be tolerated;
- ensure that human rights protection, including a commitment to adhere to basic human rights and humanitarian law, is at the centre of any settlement in Burundi.

To the leaders of armed opposition groups

- instruct all combatants to abide by international humanitarian law, in particular Common Article 3 of the 1949 Geneva Conventions which specifically prohibits all parties to an internal conflict from targeting people taking no active part in the hostilities; in particular from carrying out acts of violence, ill-treatment or mutilation, or torture including rape, as well as hostage taking;
- implement specific measures which conform to the standards of international human rights and humanitarian law to prevent human rights abuses, such as;
 - ensuring that all forces under their control are trained and ordered to respect and adhere at all times to basic principles of humanitarian law;
 - investigating allegations of abuses to determine responsibility for any such abuses and ensuring that those responsible are removed from any position which brings them into contact with civilians and those who are *hors de combat* who may be at risk of abuse;
- give clear public instructions not to recruit children, and to exclude from their ranks any children who have already been recruited;
- make it clear to members of armed opposition groups that attacks on unarmed civilians will not be tolerated;
- ensure that human rights protection, including a commitment to adhere to basic human rights and humanitarian law, is at the centre of any settlement in Burundi.

To the international community

- publicly condemn all human rights abuses which have been and are being committed in Burundi, whether by the security forces or by armed opposition groups;
- request the Burundian government to provide regular and up-to-date information on action taken to prevent human rights violations, including extrajudicial executions, and details of investigations and judicial proceedings against those responsible;
- strengthen and support the work of the office of the UN High Commissioner for Human Rights in Burundi, to allow it to monitor and report effectively on the human rights situation in the country including substantially increasing the number of human rights monitors;
- maintain pressure on the government of Burundi to investigate allegations of human rights violations, and to bring to justice those responsible;
- encourage and assist the government of Burundi in undertaking the essential reform of the security forces and the judiciary;
- prevent supplies of light weapons and other types of military, security or police equipment to the government and to armed opposition groups implicated in the war in Burundi, which it is reasonable to believe would be used by parties to the conflict to commit human rights abuses;
- support the work of the UN Commission of Inquiry into arms transfers to the former Rwandese armed forces and urge the UN Security Council to extend its mandate to cover all arms transfers which are being used for grave human rights violations in the Great Lakes region, including to Burundi, by all parties to the conflict.
- ban the manufacture, buying and selling of indiscriminate weapons such as anti-personnel mines;
- abide by the principle of *non-refoulement* at all times and ensure that no refugee is forcibly returned to Burundi, or put under undue pressure to do so. Governments should abide by the 1951 Convention Relating to the Status of Refugees and the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa;

- urge host states and the UNHCR to make a firm commitment that until such time as safe return is possible, refugees will only be repatriated when it is clearly their personal, voluntary and informed choice. A conclusion that return is advisable requires a finding that there has been effective and durable change in the level of human rights protection in the country of origin, and a commitment to ensure post-return monitoring;
- if and when safe return is judged to be possible, host states, with assistance from the UNHCR and host governments should establish appropriate procedures to assess the claims of individuals who are unwilling to return. The expertise and independence of decision-makers is central to the fairness of any such procedures;
- states which are party to the Refugee Convention should fulfill their obligations under this Convention and significantly contribute to sharing the burden of host states who are hosting large numbers of refugees to ensure that the basic needs and protection requirements of the refugee community they are hosting are met. The international community, through the United Nations and other relevant organizations such as the Organization of African Unity, the Commonwealth and the European Union must ensure that sufficient financial and logistical support is available.