

# RWANDA

## Human rights overlooked in mass repatriation

### I. INTRODUCTION

Between 15 and 19 November 1996, an estimated half million Rwandese refugees crossed over the border from Zaire into Rwanda; tens of thousands more returned in the following days. After more than two years in exile, they were finally driven out by the escalating violence and brutal abuse of human rights by all parties involved in the conflict which erupted in eastern Zaire in October 1996.

Amnesty International delegates who were in Gisenyi, in northwestern Rwanda, in November 1996 spoke to many returnees within days or hours of their return. Many appeared traumatized, exhausted and hungry. Some said they were pleased to be back in their country, even though it was violence which had forced them to return. Others appeared afraid, not knowing what was awaiting them in Rwanda.

This report summarizes the findings of Amnesty International's visit to Rwanda in November 1996, presents an overview of the risk of human rights violations facing returnees to Rwanda in mid-December 1996 and recommends steps to prevent these violations.

Several foreign governments and intergovernmental organizations, including United Nations agencies based in Rwanda, declared their relative satisfaction with the repatriation operation in November. Apparently encouraged by the failure of the international community to criticize the repatriation from Zaire, the Tanzanian Government decided in December 1996 that it too would expel hundreds of thousands of Rwandese refugees.

During the repatriation operations from both Zaire and Tanzania, the broader problem of disregard for human rights in Rwanda appears to have been forgotten. Yet by mid-December 1996, the number of detainees held without trial had reached around 90,000, including over 1,000 returnees from Zaire and Tanzania; the overcrowding in many detention centres continued to result in deaths among detainees; and arbitrary arrests and "disappearances" persisted. Furthermore, little action has been taken by the Rwandese Government to bring to justice members of the Rwandese Patriotic Army (RPA) responsible for killing hundreds of unarmed civilians in military "cordon and search" operations as recently as August 1996.<sup>1</sup>

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<sup>1</sup> See Amnesty International's report, *Rwanda: Alarming resurgence in killings* (12 August 1996, AI Index: AFR 47/13/96)

During interviews in refugee camps in Zaire and Tanzania in 1995 and 1996, refugees expressed to Amnesty International their fears of being arbitrarily arrested, held in inhuman prison conditions or killed if they returned to Rwanda. Political propaganda and physical and psychological intimidation by leaders allied with the former Rwandese government and military have been among the factors preventing their return, as documented in previous Amnesty International reports <sup>2</sup>. However, fears of falling victim to human rights violations in Rwanda have also contributed substantially to the reluctance of refugees to return. Yet from Burundi in July and August 1996, from Zaire in November 1996 and from Tanzania in December 1996, hundreds of thousands of refugees were forced back to Rwanda without being offered any option for protection.

During their visit to Rwanda, Amnesty International delegates, including the organization's Secretary General, held meetings with senior government officials to discuss the human rights situation in Rwanda, and in particular the conditions awaiting returnees. The officials, including the Vice-President Paul Kagame, advisors to the President and Vice-President, and several ministers, gave assurances that human rights would be respected. Officials told Amnesty International that instructions had been given not to arrest individuals unless a case file had been drawn up beforehand, that some prisoners would be released to ease the overcrowding in detention centres and that individual reports of human rights violations would be investigated. Some officials acknowledged that wrongful arrests, incidents of killings and ill-treatment had occurred. Amnesty International welcomes the assurances that returning refugees have nothing to fear and the promises made by the Rwandese Government that measures will be taken to improve the human rights situation.

Most of these promises have yet to be fulfilled. In order to be truly effective, they must also be accompanied by longer-term, wide-ranging reforms which can guarantee lasting respect for human rights. Without such guarantees, and while human rights violations persist in Rwanda, many refugees' fears of returning to their country may prove to be well-founded.

## **II. MASS RETURN FROM ZAIRE**

The return of an estimated 500,000 Rwandese refugees from Zaire in just a few days was not voluntary. It was a question of survival. Refugees who had just crossed over the border into Gisenyi, northwestern Rwanda, in mid-November 1996 told Amnesty International that their camps had been attacked by armed groups. Their testimonies concurred with

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<sup>2</sup> See Amnesty International's reports, *Rwanda and Burundi - The return home: rumours and realities* (February 1996, AI Index AFR 02/01/96) and *Rwanda: Arming the perpetrators of the genocide* (June 1995, AI Index AFR 02/14/95).

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those gathered during separate Amnesty International visits to Zaire and Tanzania during the same period. Amnesty International has published reports on grave human rights abuses committed by all the parties involved in the fighting in eastern Zaire.<sup>3</sup>

In the panic, many refugees became separated from members of their families. To this day some do not know what has become of their children, parents or siblings. Among the hundreds of thousands who crossed into Rwanda were many unaccompanied children. International agencies have succeeded in reuniting some families, but the whereabouts of many refugees who fled inwards into the forest in eastern Zaire are still not known.

The returnees spoke of armed clashes between the Zairian armed forces and the Tutsi-led armed group, commonly known as the Banyamulenge, officially the *Alliance des forces démocratiques pour la libération du Congo-Zaire* (AFDL), Alliance of Democratic Forces for the Liberation of Congo-Zaire. Some said they had seen RPA soldiers crossing over from Rwanda - from both Gisenyi and Cyangugu - into eastern Zaire in October 1996 to assist the AFDL. Journalists also reported seeing RPA soldiers crossing from Gisenyi to Goma.

Some returnees spoke of clashes between the AFDL and soldiers of the former Rwandese army and the *interahamwe* militia, who were largely responsible for the genocide in Rwanda in 1994. Several said that following the initial clashes, the soldiers of the former Rwandese army and the *interahamwe* militia fled northwards or westwards, accompanied by a large group of refugees described by some as "hostages".

Many refugees and local Zairians died in the fighting, some caught in cross-fire, others deliberately targeted. The identity of the killers was not always known. One refugee from Mugunga camp said he had seen around 50 bodies, of men, women and children, most of them with gunshot wounds, around Mugunga camp and in the forest. Other refugees, as well as displaced Zairians, died of hunger, exhaustion and disease. Whatever the causes of death, those who attacked the camps and took advantage of the military clashes to kill and disperse refugees were responsible for significant loss of life and for terrorizing hundreds of thousands of refugees.

**Eugène Ntwageneka**, 25 years old, returned to Rwanda in mid-November with his two brothers aged 22 and seven, leaving his two elder brothers behind in Zaire. He had fled from Katala camp into the forest after hearing rifle fire and seeing three dead bodies in the

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<sup>3</sup> See Amnesty International reports, *Zaire - Hidden from scrutiny: human rights abuses in eastern Zaire* (19 December 1996, AI Index AFR 62/29/96), *Zaire: Violent persecution by state and armed groups* (29 November 1996, AI Index AFR 62/26/96) and *Zaire: Lawlessness and insecurity in North and South-Kivu* (November 1996, AI Index AFR 62/14/96).

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camp. Like thousands of others, he reached Mugunga camp, then crossed into Gisenyi, in Rwanda.

**Alphonse Nkulikiyinka**, 46 years old, left Kahindo camp after it was attacked on 30 October. He travelled through the forest with his wife and five children, the youngest only eight months old. They reached Sake then Mugunga. By the time they reached Mugunga the camp was practically empty as it had also been attacked. The family walked on to Goma on 18 November and finally crossed the border into Rwanda.

**Jean-Oswald Nuyubuzi**, a 20 year-old former student, arrived in Rwanda on 17 November with his family. They had fled Mugunga camp following a rocket attack and fighting between former Rwandese government forces and the Banyamulenge. He witnessed the fighting and said many refugees died from gunshot wounds and from the rocket attack. Among the victims was his friend, 25 year-old **Jean-Marie Minyimimi**. Jean-Oswald Nuyubuzi and his family spent several days in the forest without food. He said they would have died if they had not returned to Rwanda. Amnesty International delegates spoke to him at a way station in Gisenyi, where he and many other returnees were visibly in poor health, exhausted and hungry. They had not been given food or any information about means of transport to their home areas. Jean-Oswald Nuyubuzi's family house in Mutura commune, in Gisenyi, was occupied by another family. His family had been told they would have to share it with the illegal occupants and stay in the annex. Before leaving Rwanda in 1994, he had been a literature student. He was hoping to resume his studies in Rwanda.

Another young returnee said his mother, grandmother and 18 year-old sister had been killed during the attacks on Mugunga camp.

Amnesty International spoke to refugees who had arrived in their home areas in Gisenyi. In *Rusiza secteur*, *Mutura commune*, an elderly man who had returned on 15 November described his flight from Kahindo camp. He and thousands of others had fled into the forest; he said many had died there. He had lost his wife and five children, four of their own and one orphan, the youngest three years old. He came over the border alone and had no news of his family. He said he feared they were dead and could not understand why international organizations were not doing more to try to find those who had dispersed in the forest.

Amnesty International also interviewed returnees and Burundi refugees in Cyangugu, in the southwest. They had fled from South-Kivu in eastern Zaire and described attacks on refugee camps there and killings of refugees. **Tharcisse Barutwanayo**, a 22 year-old Burundi refugee from Kayanza, had fled from eastern Zaire into Rwanda in fear of his life. A former student, he had first fled Burundi in late 1993, following widespread massacres there. He had stayed in Rwanda until July 1994, then fled to Zaire. He said there was

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fighting between the Banyamulenge and the Zaïrian security forces, from 15 October 1996 onwards, close to Luvungi camp, near Uvira. He fled towards Bukavu, with many other Rwandese and Burundi refugees, then to Chimanga. At Chimanga he witnessed the massacre of Rwandese and Burundi refugees and displaced Zaïrians by the AFDL. He testified:

*“At 5pm, the Banyamulenge entered the camp...They told us to gather in a particular place in the camp, for a meeting, during which they would tell us how we could return. In total there were 700 people in the camp. Around 100 agreed to go to the meeting place. We did not, as we were afraid of being killed. Then they surrounded the camp so that no one could escape. At 5.45pm, they shelled the area where they had told people to gather. They also shot at those people with their guns. Meanwhile, the ones who had surrounded the camp also opened fire on those of us who had not gone to the meeting place. Many died. Next to my tent there were around 20 dead, and two more from among our little group. Of the 700 people who had been in the camp, fewer than 100 arrived at the transit camp.”*

Eventually he crossed into Cyangugu in Rwanda. He had been walking for five weeks. He had no news of his wife, and his young child had died of disease. He was afraid of being repatriated to Burundi, where mass killings by the security forces and armed groups persist. He had been told at the border that Burundi refugees would be sent back to Burundi. He told Amnesty International: *“We are permanently caught between life and death.”*

The general confusion and absence of information about exactly who crossed the border from Zaire into Rwanda has made it easier for the perpetrators of human rights abuses in Zaire to conceal their crimes. For example on 30 November 1996, **Phocas Nikwigize**, the former bishop of Ruhengeri in Rwanda, now in his seventies, “disappeared” in Goma, in eastern Zaire. He had been a refugee in Zaire since 1994. As he was making his way to the border with Rwanda he was stopped and led away by a group of armed men. There has been no further news of him, from either side of the border, and he is feared dead.

Many other refugees died in eastern Zaire or have “disappeared”. Throughout December, Amnesty International has continued to receive testimonies of widespread killings of civilians in North and South-Kivu, indicating that the full extent of the violations in the area has not yet been revealed.

### **III. THE PROCESS OF RETURN FROM ZAIRE**

The sudden return of such a large number of refugees in such a short period posed major practical and logistical problems for government authorities and humanitarian organizations in Rwanda.

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There was no attempt to register the hundreds of thousands of refugees as they crossed the border into Rwanda. While this may be understandable in the light of the numbers involved, Amnesty International is concerned that this presents a serious obstacle to effective monitoring of the subsequent fate of individuals. The absence of registration until returnees reach their home areas means that there is scope for “disappearances”.

It quickly became apparent to Amnesty International and other observers who were present in Gisenyi between 15 and 19 November that the Rwandese authorities had wrested control of the operation from the United Nations High Commissioner for Refugees (UNHCR) and non-governmental humanitarian organizations. Vehicles belonging to UN agencies and other humanitarian organizations were commandeered by the authorities. The strategy of the government was to keep the returnees moving to their home areas as quickly as possible, even though some of these areas were far from the border. The rationale given by the authorities was that attempts by returnees to stop along the road could pose a security threat.

Humanitarian non-governmental organizations were told that food could be distributed only after the returnees had formally registered with local authorities in their home areas, a process which would take at least several days. Returnees were forced to survive by finding roots and leaves beside the road or by sharing food provided by local residents once they returned to their home areas. Along the road from the border, occasional distribution of biscuits by international organizations sometimes led to fighting among returnees.

On 18 November, Rwandese officials arrived at a temporary medical centre set up by the Red Cross and other agencies near the border. They forced around 350 patients into trucks, reportedly without giving any explanation, and moved them to the former UNHCR transit centre of Nkamira, the control of which had been assumed by Rwandese officials. The patients included disabled and elderly returnees, as well as about 20 mothers with new-born babies. Only those receiving intravenous fluids or suspected of serious infectious diseases were allowed to remain temporarily in the medical centre.

Many of the refugees returning to Rwanda were already in poor physical condition after walking for weeks in Zaire to escape the fighting. Once they crossed the border, they were not allowed to rest. The Rwandese authorities made them carry on walking, in some cases all the way to their home areas, in other cases to a transit point more than 60km from the border, from where those who lived further away were provided with transport. On the night of 19 November, Amnesty International delegates saw tens of thousands of people, including women and small children, marching from Gisenyi to Ruhengeri, in much larger numbers and at a much faster pace than had been noticed on previous nights.

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Despite these problems, a UNHCR spokesperson speaking in Gisenyi on 18 November stated “there is no indication that the government is deliberately keeping people walking”. When asked by journalists why UNHCR had not protested at the forcible closure of the medical centre, he replied that it was not the role of UNHCR to do so. The following day he stated that “on the whole it [the repatriation] has gone amazingly well”.

While journalists and human rights organizations were mostly allowed access to the border area and sites along the way, Rwandese soldiers threatened three local journalists who were taking photographs of the returnees in Gisenyi and of soldiers forcing returnees to move on from around Nkamira transit centre. The journalists’ films were confiscated by the soldiers.

#### **IV. MASS *REFOULEMENT* OF RWANDESE REFUGEES FROM TANZANIA**

In early December, a joint statement was issued by the Tanzanian Government and the UNHCR which stated that all Rwandese refugees could now return to their country in safety and that all of them were expected to leave by 31 December 1996. The population of Rwandese refugees in Tanzania was estimated at more than 500,000. Unlike the refugee population in Zaire and Burundi, the refugees in Tanzania had been able to live in a comparatively secure environment; their camps were not under attack and no major security incidents or widespread violence had been reported.

At the time of writing, in mid-December 1996, more than half the estimated 550,000 Rwandese refugees in Tanzania are reported to have crossed the border or to be on their way there. The whereabouts of thousands of others who fled eastwards or towards neighbouring countries is still not known.

Amnesty International considers that the joint statement by the Tanzanian Government and UNHCR and the subsequent forcible return of hundreds of thousands of Rwandese refugees breaches Tanzania’s international legal obligations towards refugees on its territory, notably to protect them against *refoulement*. The joint statement, which was addressed to the refugees, made no mention of any options for those who continue to fear human rights violations in Rwanda. It was an unprecedented move which represented a departure from situations elsewhere in the world in which UNHCR has been involved, where some provision has been made for identifying those who might be at risk in their country of origin. The wording of the statement left no doubt that the refugees would be expelled from Tanzania, and though there were reports that a screening procedure might be put in place for those refugees too fearful to return, that possibility does not appear to have been publicly acknowledged by the Tanzanian Government or UNHCR. A number of refugees who have refused to return are being held in a closed camp in Mwisa. The Tanzanian authorities are not known to have instituted any screening procedure to assess their claim.

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The ultimatum created panic among the refugees. Many fled the camps around Ngara and walked eastwards, away from the border, and northwards towards Uganda. From around 14 December, thousands were forcibly turned back by the Tanzanian security forces and redirected towards the Rwandese border. Military reinforcements were sent to the area and members of the Tanzanian security forces reportedly entered some camps to force refugees to leave. For several days, most humanitarian organizations who had been assisting the refugees, including UNHCR, were denied access to the camps by the Tanzanian security forces. Senior Rwandese government and military officials were also reportedly seen in the area around the camps near Ngara.

Amnesty International is investigating reports that members of the Tanzanian security forces beat some refugees in the regions of Ngara and Karagwe and burned down a church in Benaco camp in order to make refugees return to Rwanda.

Around 3,000 refugees reportedly fled from Tanzania into Uganda; most of them are women and children. Amnesty International is concerned at reports that Ugandan government officials, - including the Minister for Local Government, Jaberu Bidandi Ssali, quoted in *The New Vision* newspaper on 18 December 1996 - have stated that the refugees will not be allowed to remain in Uganda and will be deported back to Tanzania or to Rwanda.

Across the border, the Rwandese authorities severely restricted access to the border area and prevented many non-governmental organizations from assisting returnees, although there were reportedly fewer transport and food distribution problems than in the November repatriation from Zaire. The refugees from Tanzania were not registered as they crossed the border into Rwanda, again presenting obstacles to effective monitoring and the potential for "disappearances". Given that in the case of Tanzania there was not the same urgency to the repatriation, a proper process of registration should have been possible.

This was not the first *refoulement* of Rwandese refugees by Tanzania. For example, on 22 August 1996, seven refugees from Lumasi camp - **Gervais Bigirabagabo, Boniface Birekeraho, Jean-Providence Gahutu, Léonidas Munyaneza, Laurent Mushimiyimana, Eugène Tugireyezu** and **Augustin Ukobizaba** - all intellectuals who had played a leadership role in the refugee camp, were arrested by Tanzanian officials, detained for two days at Kabanga police station, and handed over to the Rwandese authorities. They have been detained without trial at the *gendarmérie* in Kibungo, in eastern Rwanda, since then.

The seven appear to have been arrested by the Tanzanian authorities not because of any involvement in the genocide in Rwanda but because they had been calling for better security in Rwanda and for dialogue between refugees and the Rwandese Government. They had sent a memorandum to the President of Tanzania asking him to use his influence



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to bring about a solution to the political impasse in Rwanda and criticizing the stance of the Organization of African Unity towards the human rights situation in Rwanda.

## **V. RISKS OF HUMAN RIGHTS VIOLATIONS FACING RETURNEES**

Amnesty International has raised concerns on a number of occasions about the pattern of human rights violations in Rwanda, in particular arbitrary arrests, prolonged detention without charge or trial in conditions amounting to cruel, inhuman and degrading treatment, ill-treatment, “disappearance” and extrajudicial executions by government or security agents. Amnesty International fears that the returnees from Zaire and Tanzania may be at risk of such human rights violations, as well as of attacks by the local population.

The returnees are not necessarily at greater risk of such violations than other sectors of the population in Rwanda. However, many returnees will be viewed with suspicion because of the presence of perpetrators of the genocide in the refugee camps in Zaire and Tanzania. Measures must be taken to ensure that individuals who took no part in the genocide are not victimized simply because they fled in 1994.

One of the biggest problems facing returnees is conflict over property and land. In many cases, the land they previously occupied or owned has been taken over by others. Their return will inevitably set into motion disputes over rights to land and ownership of property. The government has set up a building programme for new housing and has declared that illegal occupants must vacate properties within two weeks of the return of the owner, but there appear to be few mechanisms for ensuring compliance with this directive or for adjudicating disputes. Some returnees have to share their home with the illegal occupants, others stay with friends or family. Many are too frightened to claim back their property. Throughout 1995 and 1996, people who tried to reclaim their property were arrested, “disappeared” or killed. These abuses were not always carried out by government agents, but the government has done little to put an end to them. Since November 1996, in some areas illegal occupants are reported to be moving out of property belonging to returnees; in others, however, some have reportedly refused to do so.

### **1. Detention without charge or trial and arbitrary arrests**

Of the estimated 90,000 people currently in detention in Rwanda, most accused of participation in the genocide, many have been arbitrarily and unlawfully arrested, sometimes on the basis of little or no evidence. Amnesty International has received numerous testimonies of arbitrary arrests and has spoken to individual detainees and relatives of detainees during 1996. Amnesty International believes that many of those currently in detention may be guilty of crimes committed during the genocide, but that many others are probably innocent.

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In recent months, there has been progress in the reconstruction of the national judicial system in Rwanda. However, significant concerns remain. Amnesty International has raised with the Rwandese Government concerns about the prospects of unfair trials, including the absence of defence lawyers, questions about the competence, impartiality and independence of legal personnel, and the refusal to allow foreign judicial experts to work at certain levels of the judicial system. Amnesty International has also repeatedly expressed its opposition to the application of the death penalty.<sup>4</sup>

One case illustrating the problem of arbitrary arrests is that of **Abbé Jean-François Kayiranga**, a 34 year-old priest from the diocese of Nyundo and a former teacher. He was arrested on 6 November 1996 in Kivumu, Kibuye *préfecture*, when he went to register for his new identity card. The *officier de police judiciaire* (judicial police officer) reportedly wrote out an arrest warrant on the spot and arrested him, on the basis of an unspecified accusation that he had participated in the genocide. According to several sources, Abbé Kayiranga was the only priest in the diocese of Nyundo who did not leave the country in 1994 and was commended by survivors for his role in saving a number of people from the killings. Abbé Kayiranga is being held in the detention centre at Gitesi, where conditions are extremely harsh. On the night of 22-23 October 1996, 16 detainees died there as a result of severe overcrowding and poor ventilation.<sup>5</sup>

In November 1996, the Rwandese Government announced that instructions had been given to relevant officials that arbitrary arrests should not take place and that individuals should not be arrested unless a case file (*dossier*) had been prepared beforehand. It appears that some efforts have been made to respect these instructions, although the definition of what constitutes a file remains vague. In many cases a single denunciation against an individual appears sufficient to justify an arrest - despite the latest government instructions.

On 15 November 1996 - the day that the refugees began returning from Zaire - it was reported that a list had appeared in at least one *commune* office in Kigali, with the names of people killed during the massacres of 1994 and beside them, the names of those alleged to have carried out the killings.

In December 1996 the government made public a list of 1,946 names of individuals suspected of having played a leading role in the genocide - referred to as Category 1 suspects -<sup>6</sup>, compiled on the basis of information provided by prosecutors from different

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<sup>4</sup> See *Rwanda: Memorandum to the Rwandese Government. Amnesty International's concerns and recommendations for fair trials in Rwanda* (March 1996, AI Index TG AFR 47/96/09).

<sup>5</sup> See Amnesty International Urgent Action 258/96, 8 November 1996 (AI Index AFR 47/25/96).

<sup>6</sup> In the special law to try genocide suspects adopted on 30 August 1996, the accused are divided into four categories. Category 1 includes those who played a leading role in planning and organizing

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parts of the country. Several people on this list are reported to have been arrested. It is not clear how much detailed evidence is available against all the individuals on the list.

At the time of writing, more than 1,000 returnees from Zaire and Tanzania are reported to have been arrested. Scores have reported being ill-treated during arrest or in detention. The precise charges against them are not yet known. The arrest rate of returnees appeared to increase in the first half of December. Some of those arrested are reportedly named on the government's list of Category 1 suspects. Independent sources confirmed to Amnesty International that known perpetrators of killings in 1994 were among the influx of returnees. Those arrested in November and December include several former local government officials, such as *bourgmestres*, *conseillers de secteur*, former state employees, and former soldiers of the Rwandese armed forces. In some cases, the authorities have said that individuals have been arrested for their own security, to protect them against revenge attacks; they claimed that some individuals asked to be arrested.

Further large-scale arrests can be expected as returnees begin registering for new identity cards. The rate of arrests rose sharply in April and May 1996, when registration for new cards began. All Rwandese citizens are expected to apply for the new identity card by returning to their home *commune* and registering with the local authorities.

Some returnees have reportedly been arrested without any explanation. For example, on 10 December, **Origène Rutayisire**, a 35 year-old former school director, was arrested at the *commune* office at Nkuli, Ruhengeri province. The reason for his arrest is not known. He had been a refugee in Katale camp in Zaire, and had returned to Rwanda on 22 November.

**Phocas Habimana**, a 54 year-old economist, and his wife **Gaudence Nyasafari-Habimana**, a sociologist, returned from Zaire to Rwanda, in November 1996. Ten days after their return, Phocas Habimana was arrested. He is currently in detention in Ruhengeri. Shortly after his arrest, his wife's home was raided by armed men and all her property stolen. Phocas Habimana and Gaudence Nyasafari-Habimana had both served as advisors to the former government of Rwanda, he as an economic advisor and she as director of the National Population Office.

Members of the former army are especially likely to be viewed with suspicion. On 19 November 1996, Amnesty International delegates were present during a meeting at the *commune* office in Rwerere, Gisenyi, between local civilian and military authorities and a group of 33 former members of the Rwandese armed forces who had just returned from

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the genocide, as well as others who held positions of authority at the national or local levels, in political parties, in the military and militia, and religious leaders. If found guilty, Category 1 defendants will face the death penalty.

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Zaire. The official speech to the former soldiers consisted mainly of messages of reassurance and reconciliation, but it was also stated explicitly that the former soldiers would be the first suspects in the event of any insecurity or violence in their area.

Following the return to Rwanda of around 75,000 refugees from Burundi in July and August 1996, Rwandese authorities and representatives of international organizations pointed to the fact that "only around 1 per cent" of the returnees had been arrested and that few had been targeted for human rights violations in Rwanda. However, by November 1996, it was reported that more than 2,000 of the returnees from Burundi were being detained without charge or trial in seriously overcrowded detention centres. Most were held in Butare, where conditions in some detention centres amount to cruel, inhuman or degrading treatment. The returnees who have been detained include many intellectuals and individuals who served as local officials under the former government.

## **2. Prison conditions amounting to cruel, inhuman or degrading treatment**

As the rate of arrests increases, conditions in prisons and detention centres across Rwanda will continue to worsen. Unless immediate measures are taken to reduce the overcrowding, further deaths in custody can be expected. By November 1996, conditions in areas such as Gisenyi, where overcrowding had been less than in other parts of the country, had deteriorated considerably. Overcrowding and lack of facilities in detention centres in several other *préfectures* continued to cause serious concern. In Kibuye, 39 detainees died in two separate incidents in May and October 1996. Deaths of detainees resulting from intolerable conditions in 1996 were reported in several other *préfectures*, including Rural Kigali, one of the areas to which many refugees are returning. At the end of September 1996, three detainees - refugees who had returned to Rwanda earlier in the year - reportedly suffocated to death in a detention centre in Butare, just a few days after their arrest.

Repeated promises made by the government throughout 1996 that children under 14 and elderly and sick prisoners would be released have still not been implemented. Some government officials have admitted that the *commissions de triage* (screening committees) set up to release detainees against whom there is insufficient evidence were not working and said they would be disbanded, but no effective alternative mechanism has yet been set up.

Ill-treatment of detainees by security officials, usually in the form of beatings, also continues to be reported in various parts of the country. Several detainees have died as a result of severe ill-treatment.

## **3. "Disappearances"**

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Amnesty International has documented a number of “disappearances” in 1995 and 1996. The involvement of state agents is not clear in all cases. However, to Amnesty International’s knowledge, the government has not made public the results of its investigations into these “disappearances” nor taken action to prevent their recurrence.

For example on 2 August 1996, **Venant Ntirampeba**, a Burundi national who worked for SINELAC, a company owned jointly by the governments of Rwanda, Burundi and Zaire, “disappeared” in Cyangugu. He had reportedly been threatened by several colleagues after the coup d’état in Burundi on 26 July. On 2 August, the chief of immigration in Cyangugu, two RPA soldiers and a colleague took him towards the border, claiming that he needed to obtain a new visa. He has not been seen since.

On 4 May 1996, **Cyprien Gakuba**, a father of three who lived in Kigali, “disappeared” in Byumba, along the road heading north from Kigali. The bus in which he was travelling was stopped by RPA soldiers and Cyprien Gakuba and several other passengers were made to get off the bus. The soldiers then ordered the bus to move on. Cyprien Gakuba was never seen again.

Amnesty International is especially concerned that returnees could be victims of “disappearances”, given the absence of registration at the border or in transit. These fears are heightened by the inevitable chaos arising from the mass movement of so many people.

#### 4. Killings

In August 1996, Amnesty International published a report entitled *Rwanda: Alarming resurgence of killings*, which described the killings of hundreds of unarmed civilians by members of the RPA and by armed opposition groups allied to the former Rwandese army and militia. To Amnesty International’s knowledge, the Rwandese Government has not published the results of its investigations into any of the extrajudicial executions by its own forces. The RPA commander in charge of the cordon and search operations in Ruhengeri in which more than 150 people were massacred in July and August 1996 has reportedly been transferred to the eastern *préfecture* of Kibungo, one of the main areas to which refugees from Tanzania are now returning.

In mid-December, it was reported that an RPA official, Lieutenant Colonel Ibingira, was being tried by a military court in connection with the massacre of several thousand people at Kibeho in April 1995. Amnesty International welcomes this action and urges the government to also bring to justice RPA officials involved in killings of civilians since then.

Killings by members of the RPA and attacks attributed to armed opposition groups have continued sporadically. On 27 October 1996, **Judith Mukabaranga**, *bourgmestre* of

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Nyakabuye in Cyangugu, was killed in her home, together with her younger sister, **Rose**, and two visitors, a young woman, **Francine**, and a 15 year-old boy, **Jean-de-Dieu**. It is thought that the perpetrators were members of militia operating from Zaire or Burundi. They also mounted an attack on the nearby detention centre and freed around 100 detainees. At least one RPA soldier and two detainees were reportedly killed.

Since the mass return of refugees from Zaire in November 1996, Amnesty International has received information about several killings of returnees. On 9 December, in the early hours of the morning, a soldier visited six families - reportedly returnees from Zaire - in Kicukiro, Kigali, and ordered six men to follow him to the local *secteur* office. On arrival at the office, he shot them. Three of them, **Gafaranga, Gatera and Ntihakose**, reportedly died on the spot. The others, **Bagaragaza, Rwabuyonza and Mugarura**, were seriously injured. It is thought that the soldier believed they had participated in the genocide. A soldier is reported to have been arrested in connection with the shooting.

Other killings of returnees, as well as killings of local civilians by returnees, were reported in November and December from various parts of Rwanda. Amnesty International is investigating these cases.

## **VI. INTERNATIONAL COOPERATION IN THE REFOULEMENT OF REFUGEES**

Amnesty International has serious concerns about the role played by the international community, in particular UNHCR, in condoning the mass *refoulement* of refugees to Rwanda by neighbouring countries. To a greater or lesser extent, UNHCR has cooperated in repatriation operations from Burundi, Zaire and Tanzania.

UNHCR's statute entrusts it with the role of protecting refugees and assisting governments with voluntary repatriation. In numerous other documents, including UN General Assembly resolutions and UNHCR Executive Committee conclusions, the importance of ensuring that repatriation is genuinely voluntary is stressed. UNHCR has stated that voluntariness in repatriation plays a critical role in the protection of refugees. UNHCR's involvement in the repatriation from Tanzania, in particular, contravenes this basic principle.

Central to the policy of UNHCR and other inter-governmental organizations has been an assessment of the human rights situation in Rwanda which does not take into account all the available information. Amnesty International believes that UNHCR, while acknowledging the occurrence of human rights violations in Rwanda, has continued to declare that it is generally safe for refugees to return and has played down the level of risks which some returnees may face. UNHCR's assessment appears to be based on reports produced by the UN Human Rights Field Operation for Rwanda (UNHRFOR) as well as

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by the UNHCR's own field offices. Some UNHCR reports include detailed information about human rights violations, but this is not reflected in the public statements of UNHCR. This failure to acknowledge the real level of human rights violations has had dramatic consequences for refugees in neighbouring countries, resulting ultimately in their mass expulsion.

The situation of the refugees from Burundi, who returned to Rwanda in July and August 1996, is often cited - by the Rwandese authorities, foreign governments and UN agencies - as proof that returnees have nothing to fear in Rwanda. While the UNHCR and the UNHCRFOR acknowledged that the initial return in July 1996 of more than 15,000 Rwandese refugees from Burundi was forced, the subsequent return of around 60,000 more refugees in August 1996 was portrayed as voluntary.

Amnesty International believes that the vast majority of the refugees in Burundi had shown little willingness to return until several were threatened with violence by the Burundi security forces, five were shot dead by Burundi soldiers outside a refugee camp, and more than 15,000 of their compatriots were forcibly returned by the Burundi authorities, with the full cooperation of the Rwandese authorities. Some refugees were reportedly told that they would be arrested in Burundi if they refused to return. About 30 of them were already in detention, where they had been subjected to torture and ill-treatment. Previously, in April 1996, the leader of Magara refugee camp had "disappeared" after being taken towards the border. It is thought that he may have been killed by the Burundi security forces.

Amnesty International deeply regrets that under pressure from the authorities in Rwanda, neighbouring countries and donor governments, UNHCR has sacrificed basic principles of refugee protection. Amnesty International hopes that this shift in policy will not set a precedent for the future protection of refugees from Rwanda or from any other country.

## **VII. RECOMMENDATIONS**

Amnesty International is appealing to the authorities in Rwanda, in neighbouring countries and other governments, as well as intergovernmental organizations, to implement the recommendations below as a matter of urgency. It calls on the international community to strengthen its long-term monitoring of the human rights situation in Rwanda. With the return of hundreds of thousands of refugees and the prospect of the return of many more, a full and impartial evaluation of the risks of return is imperative. Such an evaluation must be based on a long-term assessment; it is not sufficient to judge the level of safety on the basis of the few weeks immediately following the return of the refugees.

### **1. To the Rwandese Government**

Amnesty International is urging the Rwandese Government to put an end to human rights violations and to take action to prevent their recurrence. In particular:

- Allow immediate access to the border area to humanitarian organizations seeking to assist returning refugees.
- Put an end to arbitrary and unlawful arrests.
- Ensure that trials of those suspected of participation in the genocide conform to international standards of fairness, without use of the death penalty.
- Ensure that members of the security forces and officials responsible for human rights violations including extrajudicial executions and "disappearances" are brought to justice. Make public the results of the government's investigations into extrajudicial executions of unarmed civilians by the RPA during 1995 and 1996.
- Issue instructions to security officials and prison guards that ill-treatment of detainees will not be tolerated and that those responsible for ill-treatment will be dismissed and prosecuted.
- Take immediate measures to relieve the overcrowding in prisons and detention centres, by releasing detainees against whom there is little or no evidence, as well as children, the elderly and the sick.
- Ensure that regulations to restore property and land to their rightful owners are adhered to and that owners are not intimidated from claiming their rights.

## **2.To authorities hosting Rwandese refugees**

- Allow humanitarian and human rights organizations unhindered access to areas where refugees and internally displaced persons are located.
- Stop the *refoulement* of refugees and ensure that the remaining refugees are not forced back to Rwanda against their will.
- Insist on clear independent evidence of respect for human rights in Rwanda before sending refugees back. When it appears to be safe for refugees to return, establish procedures to allow any refugee still unwilling to return to apply for asylum.

## **3.To foreign governments**



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- Condemn publicly the mass *refoulement* of refugees from Tanzania, Zaire and Burundi. Urge these and other governments in the region, as well as the AFDL in eastern Zaire, to refrain from forcibly expelling any more refugees.
  - Provide countries hosting refugees in the region with adequate financial and logistical support.
  - Encourage the Rwandese Government to implement measures which will reduce the likelihood of human rights violations.
  - Aid the Rwandese Government to ensure respect for human rights, for example by providing legal experts to assist in trials of those accused of genocide.

#### **4. To the United Nations High Commissioner for Refugees**

- Publicly protest against the grave human rights abuses suffered by refugees, in particular the mass *refoulement* from Tanzania, Zaire and Burundi.
- Investigate reports of human rights abuses committed in eastern Zaire during attacks on refugee camps under UNHCR protection.
- Ensure that repatriation is voluntary and that those who have legitimate fears of return and those who have not committed crimes against humanity are protected and given refuge.
- Guarantee that those who return voluntarily do so in safety and dignity.
- Continue and strengthen the programme for monitoring returnees in Rwanda to ensure their long-term protection from human rights violations.
- Protest to the Rwandese authorities about cases of human rights violations of returnees and call for remedial action.

#### **5. To the United Nations Human Rights Field Operation in Rwanda**

- Continue issuing regular public reports, including on action taken by the Rwandese Government to prevent further human rights violations. Reports should also include UNHCR's assessment of the fairness of trials of those accused of genocide and of members of the security forces accused of human rights violations.

- Continue and strengthen the programme for monitoring returnees in Rwanda, at least throughout 1997, to ensure their long-term protection from human rights violations.
- Collaborate more closely with local human rights organizations and help strengthen their capacity to investigate and prevent human rights violations.