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**AFRICA**

**In search of safety**

**The forcibly displaced and human rights in Africa**

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### **1: Introduction**

More than 20 million Africans are forcibly displaced from their homes. About five million of them are refugees who have found asylum in another country, usually in a neighbouring state. Many more — an estimated 16 million — are internally displaced within their own country.

There is nothing exceptional about most of these people, except their suffering. Whether in foreign lands or still in their own countries, they have had the misfortune to live in the “wrong” place at the “wrong” time, to be from the “wrong” ethnic group or to have supported the “wrong” political faction. The majority are women and children — but anyone can become displaced.

The factors that lead people to leave their homes, communities and lands in search of safety are complex. Repression, social violence, armed conflict, poverty and forced displacement co-exist and reinforce each other. The immediate cause of flight is almost always the danger of human rights abuse.

People flee because they are afraid of arbitrary arrest and torture. They flee because friends or family have “disappeared”. Above all — and increasingly — they flee because in wars across Africa civilians have become a prime target of military action.

In the past 15 years, millions of African civilians have lost their lives in wars. Many have died in famines brought about by the actions of governments and armed opponents. Many others have been killed indiscriminately or have been the victims of extrajudicial execution. It is to avoid this fate that millions more have fled. In countries including Angola, Burundi, Liberia, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zaire, attacks on civilians have been carried out by both government forces and armed opposition factions. Increasingly, governments and political factions are exploiting ethnic differences to mobilize support and to define enemies. This is leading to the identification of whole communities and populations as targets.

Human rights abuse on a less extreme scale than all-out war is responsible for forced displacement across the continent. In Kenya state-sponsored ethnic violence in 1991 and 1992 led to more than 1,500 deaths and the internal displacement of approximately 300,000 people. Around 240,000 refugees fled Togo in 1993 to escape a government crack-down on democratic reform. Sudanese trade unionists, students and political activists are at constant risk of detention in parts of the country only touched indirectly by war; thousands have fled since 1989.

Governments often choose to forget that uprooted people share the same fundamental rights as other human beings. Displaced people are the poorest of the poor. They have lost their homes and livelihoods. They may be dependent on the communities into whose lands they have moved, who are often themselves impoverished with few resources to share. They are at the mercy of whoever controls the territory they are in. Human rights abuse of refugees and internally displaced people — the most marginalized and disregarded of society — is depressingly common.

The prevailing international reaction to refugees in Africa is to focus on their humanitarian needs, rather than addressing the causes of their flight. While refugees must have access to the necessities of life, this is not enough. Governments cannot avoid their responsibility to tackle the fundamental human rights problems and political processes which lead to forcible displacement.

This report describes the causes of forced displacement in Africa and the special vulnerability of African refugees and internally displaced people to human rights abuse. It points to the failure to give sufficient priority to human rights issues in the search for solutions to refugees’ problems, often for reasons of economic and political expediency. It calls on governments and international institutions to reaffirm their commitment to the protection of refugees and to take a more active role in protecting the rights of the internally displaced.

Worldwide, the human rights movement has been slow to take up the cause of refugees, fostering a gap between refugee-oriented organizations and human rights bodies. This report urges human rights organizations in Africa to consider how they might contribute to securing the human rights of the forcibly displaced.

## **Refugees and the internally displaced**

More than five million African men, women and children are refugees. This is one-third of the total world population of refugees. At least three times as many are internally displaced in their own countries.<sup>1</sup>

Refugees are entitled to international protection. The 1951 United Nations Convention relating to the Status of Refugees (the UN Refugee Convention) and its 1967 Protocol establish the right to protection of people at risk of persecution in their country of origin because of their race, religion, nationality, social group or political opinion.

For refugees in Africa there is a further regional treaty, the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention). Drafted in the aftermath of anti-colonial struggles, the OAU Refugee Convention

allows for the group-based determination of refugee status. This means that large groups of refugees fleeing mass human rights violations or generalized violence are given protection on the strength of their nationality or their membership of a particular ethnic group. A generous and liberal standard, it is vital in safeguarding the lives of millions of people.<sup>2</sup> The two conventions mean that most African countries have a dual approach to granting refugee status.

Large numbers of refugees are admitted to African countries under the terms of group eligibility. However, they are often required to remain confined to rural settlements and camps. They lose their refugee status if they leave the designated areas and are treated as illegal immigrants. Many refugees are of rural origin, but some urban refugees also find themselves restricted to areas where they have no opportunity to re-establish the lives they have been forced to leave behind. There are, for example, approximately 200 educated, urban Ethiopians confined to the remote refugee camp of Kakuma in northern Kenya. Many refugees move to towns and cities where they become “invisible” — no one knows how many refugees are living illegally in African cities but it is likely to be hundreds of thousands. They are vulnerable to exploitation, harassment and expulsion. For example, several hundred Zairian refugees in Tanzania who sought to stay in towns and cities have been arrested by the Tanzanian authorities and threatened with expulsion.

In addition to group determination, individual asylum applicants have their status determined on a case-by-case basis, often through procedures that are bewilderingly complex and less than satisfactory. Asylum-seekers frequently have no access to independent advice or representation, and no real prospect of exercising the right of appeal if their application is turned down.

Individual status procedures in Africa, as elsewhere, have been side-stepped in the case of political leaders who would otherwise be denied protection because of their human rights crimes. For example, Mengistu Haile-Mariam of Ethiopia was granted asylum in Zimbabwe; Milton Obote of Uganda has been living in Zambia since 1985; Hissein Habré of Chad gained asylum in Senegal; and the late Siad Barre of Somalia received protection in Kenya, then Nigeria.

The protection afforded to people recognized as refugees varies from country to country. The legal framework at the national level ranges from detailed legislation on refugees to virtual silence on the issue. African governments also differ in how far they implement human rights standards in practice in their treatment of refugees.

There is an international agency charged with ensuring that both the protection and assistance needs of refugees are met: the Office of the United Nations High Commissioner for Refugees (UNHCR). To carry out its work, it needs access to refugee communities, access which depends on the goodwill and cooperation of host states. UNHCR is also largely reliant for its funding on Western donor governments.<sup>3</sup> This dependence on governments can sometimes constrain UNHCR from taking a strong and public stance on protection issues and may affect the vigour with which it discharges its protection mandate.

For the 16 million internally displaced Africans, there is no specific international treaty or organization like UNHCR mandated to provide assistance and protection. Governments are frequently reluctant to accept international supervision of their treatment of refugees; they are often overtly hostile to international involvement in providing assistance and protection to the internally displaced, who are their own citizens. Many internally displaced populations are therefore beyond the reach of international organizations.

The need to secure improved protection for the internally displaced can no longer be ignored, but solutions are complex and fraught with practical and political difficulties. Refugee advocates fear, with good reason, that governments — both hosts and financial donors — may use initiatives on behalf of the internally displaced to undermine international obligations towards refugees, by effectively preventing people fleeing across borders.

Africa's history of forced migration goes back centuries. Conditions in pre-colonial states often led to mass movements of people escaping from repressive rulers, facilitated by low population densities and the absence of formal political boundaries.<sup>4</sup> The slave trade not only led to millions of Africans being deported to work in the plantations of the "New World" and the slave armies of the Middle East and Ottoman Empire, but also forced countless African communities to flee to avoid the slave-raiders. The colonization of the continent by European powers again led to mass displacements, followed by widespread forced labour in plantations and mines. The artificial boundaries imposed by the colonial powers, which carved through communities and traditional areas of seasonal movement, remain a complicating factor today.

In the years after independence, nationalist politicians in a number of countries resorted to mass expulsions of "foreigners" in attempts to build popular support. Recent decades have seen disastrous economic decline in sub-Saharan Africa, exacerbating repression, political destabilization and civil war. With the end of the Cold War, Africa's global strategic significance has declined. New opportunities for democratization have opened up, but political uncertainty and armed conflict have spread. In some parts of Africa, such as Liberia, Somalia and Sudan, states have disintegrated into patches of territory controlled by competing armed factions.

Any optimism that there might be an imminent end to the forced movement of millions of people in Africa has disappeared. Instead, host governments and populations in states across Africa see only the danger of new internal conflicts and the prospect of conflicts in Central Africa, Sudan and Liberia developing into full-scale international wars. In all such conflicts, the lives of ordinary men, women and children are devastated.

### **The crisis in protection**

The international regime guaranteeing the protection of refugees is under threat. Historically, the response of most African countries and communities towards the displaced has been generous, reflecting African values of hospitality and long-standing ethnic, political and cultural links between refugees and host populations. Even in circumstances of economic and social difficulty, Africans have extended a welcome which often puts wealthier industrialized countries to shame. Malawi, for example, a country of fewer than 10 million people, accommodated until a few years ago a refugee population officially put at 1.1 million.

However, in recent years this hospitality has been eroded. Some African governments have closed their borders to people in fear of their lives. They have forcibly expelled refugees to their country of origin — where some have been killed. Other refugees have been coerced into returning to their countries of origin by reductions in food supplies and the denial of other basic rights. Xenophobia has long existed in some African states, for example, against Ugandans and Somalis in Kenya or against highland Ethiopians in northern Sudanese towns. Hostility towards refugees appears to be increasing, with refugees being blamed for economic, security, environmental and social problems.

The number of Africans who seek asylum outside Africa is a tiny proportion of the total number of Africans forcibly displaced. Those that do often face hostility and racism in a climate of growing official reluctance to accept refugees. Wealthy industrialized states which pay lip-service to the rights of refugees are effectively closing their own borders to the relatively few asylum-seekers who seek to cross them.<sup>5</sup> Meanwhile, these same states are reluctant to provide adequate support to economically poorer states like Tanzania which host huge refugee populations yet have no international mechanism to compensate them for the enormous responsibility they bear.

UNHCR faces growing unwillingness on the part of governments the world over to fulfil their obligations to refugees and a lack of international support for its protection work. Amnesty International believes that its agenda is increasingly dominated and defined by its humanitarian assistance activities.

The best solution to forced displacement is to prevent people being forced to flee in the first place. However, unless their strategic interests are immediately threatened, governments will not initiate measures to protect people before an emergency has occurred.

A deterioration in the human rights situation is an early warning of political tensions which may lead to people being forced to flee. Unfortunately, human rights reports by UN and OAU bodies are rarely heeded, let alone those from non-governmental human rights groups. In August 1993 the UN Special Rapporteur on summary or arbitrary executions reported on the pattern of killings in Rwanda and proposed radical but practical measures to protect civilians against massacres. The report was largely ignored; in April 1994 the genocide in Rwanda began.

Once displacement has taken place, a solution will not be found solely by addressing relief logistics and ignoring why people were forced to flee. If human rights abuses are the cause of displacement, establishing respect for human rights lies at the heart of the solution. In order to create the conditions in which people can return home safely, many war-torn African countries require sustained support for complex and long-term processes of reconciliation and reconstruction. However, governments generally find it expedient to use a narrow and short-term approach to forced displacement, rather than confronting it as part of a process with political and human rights dimensions.

Recent refugee crises in Africa have mostly arisen in the context of armed conflict. Human rights issues have to be an integral part of the process of resolving conflict. If a just and lasting peace is to be created, peace treaties have to incorporate specific human rights commitments and mechanisms to guarantee them. These need to include agreements on the return of both refugees and internally displaced people to their homes. However, human rights have rarely been given sufficient priority.

Most refugees and internally displaced people are keen to return home. Few are prepared to return if there is still a risk of the human rights abuses which caused them to flee. Repatriation has, therefore, to be to situations that are demonstrably safe. Unfortunately, some states have forcibly repatriated refugees to unsafe situations.

If displaced people do not have sufficient accurate information about the situation back home to take an informed decision, their return cannot be described as voluntary. The Sudanese Government, for example, has promoted the return of several thousand internally displaced people to parts of southern Sudan, while omitting to tell them that the areas in question remain a battleground between armed opposition groups and government militia.

Return, even when it is voluntary and safe, is not the end of the story. Steps must be taken to ensure the security and successful reintegration of the returning refugees. From a human rights perspective, a reliable independent monitoring system is vital to allow prompt remedial action if persecution begins to re-emerge.

### **Amnesty International and refugees**

Amnesty International applies a simple standard in its work on refugees. Anyone who can reasonably be expected to be in danger of imprisonment as a prisoner of conscience, torture, execution or “disappearance” in their country should not be forced to return there. Our concern is to prevent the forcible return to danger (refoulement) of those in need of protection. This includes ensuring access to fair and satisfactory asylum procedures and an objective and impartial assessment of the human rights situation in a country of return.

In this report, when Amnesty International refers to refugees, the term includes all asylum-seekers fleeing persecution and human rights violations, including those who may not have been formally recognized as refugees. The term forcibly displaced covers both refugees and the internally displaced.

Much of Amnesty International’s work on behalf of refugees is done by the movement’s national sections based in the countries where people seek protection. Amnesty International

members provide information about human rights violations in asylum-seekers' countries of origin to governments, to those who make decisions on asylum claims, and to lawyers and others who are working on behalf of asylum-seekers. Amnesty International's sections also monitor governments' asylum policies and practices to ensure they are adequate to identify and protect those at risk. In some cases, Amnesty International members intervene directly with the authorities to prevent someone being forcibly returned to danger.

This report is part of a worldwide Amnesty International campaign for refugees' human rights. The campaign, which was launched in March 1997, aims to focus on three cornerstone issues, each inextricably linked to the protection of human rights:

- \* **Human rights protection in countries of origin** — action to prevent human rights violations, so that people do not have to leave their countries in search of safety;
- \* **Human rights protection in countries of asylum** — action to ensure that those who flee human rights violations are allowed to reach a place of safety, are given effective protection against forcible return, and are guaranteed minimum standards of humane treatment while they are displaced;
- \* **Human rights protection at the international level** — action to ensure that human rights considerations are paramount in considering refugee issues, such as programs for refugees to return home, developments in international refugee law and practice, and the protection needs of people internally displaced within their own countries.

The growing number of refugees is neither a temporary problem nor the random product of chance events. It is the predictable consequence of human rights crises, the result of decisions made by individuals who wield power over people's lives. If governments did their job — if they protected their citizens instead of persecuting them — then those in exile could return home safely, and no more men, women and children would have to gamble on an uncertain future in a foreign land.

## **2: The causes of displacement**

Every individual refugee or internally displaced person is the consequence of a failure to protect human rights. Human rights abuse is not "accidental". It results from political and military decisions, especially in the serious wars that are currently raging in parts of Africa, and from levels of repression and sustained discrimination within societies.

This chapter focuses on two case studies which demonstrate the relationship between human rights abuse and forcible displacement. The first, the crisis in the Great Lakes region of Central Africa, reveals the links between human rights violations and mass population movements. It shows that without effective guarantees for human rights, refugee issues cannot be satisfactorily resolved. It also illustrates the tendency for the protection of human rights to be glossed over by governments in their rush to find solutions to difficult problems. In the second, Liberia, the cycle of violence and hatred has become so entrenched that more than half of the population have fled their homes. The state has disintegrated, creating special problems for establishing respect for human rights. Both of these conflicts, and many others across Africa, show the manipulation of ethnicity to foment hostility and hatred.

There are many other examples which demonstrate the relationship between human rights abuse and forcible displacement. Hundreds of members of the Ogoni ethnic group in Nigeria fled from arrests, rapes and killings which followed inter-ethnic clashes in 1993, believed to have been instigated by government forces, and the formalization of the military occupation of Ogoniland in April 1994. In November 1995 the Nigerian writer and advocate of Ogoni rights, Ken Saro-Wiwa, was executed with eight other Ogoni leaders after an unfair and politically motivated murder trial,

provoking worldwide condemnation. While in 1993 the Ogoni sought safety in other parts of Ogoniland or Nigeria, the continued persecution of the families of the executed men and supporters of the Ogoni rights movement led in early 1996 to an exodus of about 1,000 people to neighbouring Benin. The flight stopped when the Nigerian authorities tightened border security.

Around 240,000 refugees fled human rights abuses in Togo in 1993 as the President and army mounted a crack-down on democratic reforms. Approximately half the refugees returned home in 1993 and 1994 but some encountered further abuse and again fled. A “general amnesty” for refugees in late 1994 was received with suspicion by many refugees and more than 100,000 remained outside the country at the start of 1996. About 13,000 were in Benin and Ghana in early 1997.

### *The Great Lakes of Central Africa*

“There is shooting, people are being terrorized, people are inside their homes lying on the floor.”

This message, broadcast by Radio France Internationale, was one of the last public statements made by Rwanda’s Prime Minister Agathe Uwilingiyimana before she was killed on 7 April 1994.

Agathe Uwilingiyimana’s government had committed itself to power-sharing between the two ethnic groups in Rwanda: the majority Hutu and the minority Tutsi. She had been appointed in July 1993 after a three-year civil war between the Hutu-dominated army and the Tutsi-dominated Rwandese Patriotic Front (RPF).

The tentative moves towards peace were shattered on 6 April 1994 when a plane carrying the presidents of both Rwanda and Burundi was shot down. Within hours, soldiers and allied militia units in Rwanda had begun an orchestrated campaign of slaughter.

As many as one million people, mostly Tutsi but also Hutu moderates, were murdered in the following weeks. Members of the interahamwe militia, soldiers, police and local government officials went from house to house, dragging people out of their homes and killing them with knives, bayonets and guns. Truckloads of soldiers rampaged through the streets and countryside, hunting human prey. Crowds who had sought sanctuary in churches and hospitals were mown down, their bodies left to fester in the heat.

Ordinary civilians were caught up in the frenzy. One Hutu woman testified:

“I killed three people, three men. I knew them, they were my neighbours... I didn’t have any alternative. When I refused to kill, the government soldiers banged a gun on my child’s head and she died. She was six weeks old.”

The slaughter spread with a speed that indicates detailed advanced planning. In the months before the eruption of violence, the militias had been armed and prepared — physically and psychologically — to kill Tutsi.

Although most of the victims were Tutsi and Hutu moderates killed by government forces and allied militias, a few thousand mostly Hutu people were massacred by the RPF in reprisal killings.

The world was rightly shocked and outraged by the genocide in Rwanda. But it should not have been surprised. The risk of a human rights catastrophe was clear well in advance. For years Rwanda’s leaders had promoted ethnic hatred.

In the months before the outbreak of genocidal violence in Rwanda, the international community was repeatedly urged by senior UN human rights experts to take action to protect civilians from massacres.<sup>6</sup> The appeals were not heeded. Far from intervening to prevent the calamity, the world’s governments allowed the situation to deteriorate and then withdrew almost all UN forces as Rwandese men, women and children were massacred.

The genocide stopped with the victory of the RPF in July 1994. Around two million mainly Hutu refugees fled to Zaire, Tanzania, Uganda and Burundi. Many had played no part in

the mass killings and other gross human rights abuses of 1994, but among those fleeing were also members of the former government, the former army and the interahamwe.

For over two years, more than 1.5 million Rwandese refugees lived in sprawling “tent cities” in eastern Zaire. More than 500,000 refugees sheltered in Tanzania and 150,000 in Burundi. The camps were largely controlled by the former government, its army and the militias — in other words, by the authorities responsible for genocide. They used the camps as bases to reorganize and prepare for future military action against the new government in Rwanda.

By late 1996 there were also about 50,000 refugees in eastern Zaire and about 200,000 in Tanzania who had fled from the less publicized civil war in Burundi. Recurrent massacres of civilians had plagued Burundi for decades, but intensified dramatically after a coup attempt in October 1993 in which Burundi’s first democratically elected President was assassinated. Killings of unarmed civilians, including the elderly and children, were reported virtually every week. Burundi has descended into civil war and virtual anarchy, where survival is a matter of chance. At least 10,000 killings were recorded between July 1996, when Major Pierre Buyoya took power in a military coup, and the end of 1996.

The refugees from Rwanda and Burundi did not find a safe haven. Those in Zaire were forced to flee once more when open warfare erupted in September 1996 between the Zairian army and a Tutsi-led armed group reportedly supported by the Rwandese Government. By the end of October this force, the Alliance des forces démocratiques pour la libération du Congo-Zaire (AFDL), the Alliance of Democratic Forces for the Liberation of Congo-Zaire, had gained control of a large swathe of eastern Zaire.

During October 1996 refugee camps housing more than one million largely Hutu refugees from Rwanda and Burundi came under sustained attack from the AFDL. Refugees were also attacked by Zairian soldiers and by Hutu forces of the former Rwandese government and allied interahamwe. The AFDL, reportedly supported by Rwandese government forces, bombarded refugee camps indiscriminately and committed several massacres. For example, about 500 Rwandese refugees and displaced Zairians were massacred by AFDL members in mid-November 1996 at Chimanga refugee camp, 60 kilometres south of the town of Bukavu. The massacre followed clashes between the AFDL and members of the former Rwandese army and interahamwe militia.

The use of ethnic divisions by the Zairian authorities was seen throughout the refugee crisis. Legislators threatened to deprive people of Rwandese origin (both Hutu and Tutsi) of their Zairian citizenship, even though many had lived in Zaire for generations. Once fighting had broken out, Zairian politicians and the media blamed Tutsi living in Zaire and urged citizens to mobilize to fight “the enemies from without and within”. In October the Zairian parliament demanded the removal of all Tutsi from government posts. There were violent anti-Tutsi demonstrations, led by students, in which Tutsi homes were looted and destroyed and Tutsi men, women and children humiliated and beaten. The security forces did nothing to prevent this. Scores of Hutu and Tutsi were detained because of their ethnic origin or nationality in Kinshasa and Kisangani. Hundreds of Zairian Tutsi were deported to Rwanda and Burundi. Hundreds more fled in terror to Congo.

By November 1996 more than a million refugees were caught between vicious fighting and starvation in eastern Zaire, cut off from all support. They hid in the dense forests, eating roots and drinking rainwater. One refugee described the confusion:

“Many people were wounded and shot dead. We don’t know who was doing the shooting. There were lots of people with guns who had no uniform.”

The situation was so desperate that on 15 November 1996 the UN Security Council endorsed a multinational intervention force to aid the refugees. While foreign governments continued to debate this proposal, Rwandese refugees were faced with the imminent threat of death from hunger and disease. Their only chance of survival appeared to be to return home. In



the space of a few days, about 600,000 refugees walked back across the border into Rwanda. One by one governments that had indicated they were prepared to contribute to the intervention force pulled out — the international community had decided that the problem was over. The Rwandese Government and the AFDL declared that virtually all the refugees had returned to Rwanda. However, an unknown number of Rwandese refugees (estimated at between 150,000 and 500,000) remained in Zaire, living in dreadful conditions.

Given the international community's failure to criticize the forced returns from Zaire, the Tanzanian Government seized the opportunity to expel refugees itself. In early December, in a statement jointly signed by UNHCR, the Tanzanian authorities gave hundreds of thousands of Rwandese refugees three weeks to return home. Over 300,000 left their camps and tried to head for other countries. Tanzanian soldiers forced them back across the border: more than 400,000 people crossed into Rwanda in three weeks (see Chapter 5).

The international community was so keen to see a resolution to the “refugee problem” that few questions were raised either about whether these returns were voluntary, or about whether it was safe for refugees to go back, despite the evidence of continuing human rights problems in Rwanda. Killings had persisted in Rwanda during 1994 and 1995, and at least 900 people died at the hands of government soldiers or armed opposition groups in the first eight months of 1996. Tens of thousands of people were detained in dire conditions without charge or trial, often on the basis of little or no evidence, on suspicion of involvement in the genocide.

The returning refugees face an uncertain future. In January and February 1997 there were further killings by both the Rwandese Patriotic Army (RPA) and armed groups allied with the former Rwandese army and interahamwe militia. Returned refugees from Zaire and Tanzania have been among the victims. Increasingly, parts of Rwanda resemble a new battleground with serious human rights abuses being reported every day.

Some refugees were forced back to Burundi, where they faced even more immediate danger. Many were rounded up by the AFDL and handed over to Burundi government forces at the border. Hundreds were then mercilessly killed. For example, on 22 October 1996, around 400 people who had recently returned to Burundi were massacred in and around a church in Murambi. More than 100 people returned by the Tanzanian authorities in January 1997 were shot dead by Burundi government forces.

The conflicts that led to the refugee crisis in eastern Zaire in late 1996 were characterized by and rooted in human rights abuses. The refugees had fled from both Rwanda and Burundi to Zaire because of mass killings of unarmed civilians by people prepared to slaughter the innocent in pursuit of their political aims. Among those who fled were those responsible for genocide.

While in Zaire, the refugees were at the mercy of the exiled militia groups that employed intimidation and violence while using them as “human shields” to garner relief aid and to prepare counter-offensives against the governments of Rwanda and Burundi. Meanwhile, Zairian political leaders sought to use ethnic divisions to undermine their opponents and buy the loyalty of their allies. Zairian security forces committed widespread human rights abuses with impunity. AFDL combatants, reportedly backed by the Rwandese Government, did not hesitate to attack refugees in their determination to dismantle the refugee camps which contained their opponents.

Solutions to the crisis in Central Africa will not be easy. But any “solution” will be impermanent if not rooted in respect for human rights. The refugees cannot return home in dignity and safety if human rights violations continue in their home countries, even if they have been forced to choose this route as the lesser of two evils. There is no long-term hope of peace in Burundi unless the rights of both its ethnic groups can be protected. The very future of Zaire as a political entity remains in doubt as long as its government routinely ignores the rights of its citizens.

## **Liberian tragedy**

“At this moment I feel I have no words to speak of the calamities which the war has inflicted on me. The first tragedy was the untimely death of my dear wife. We had three children. She died in Buchanan in 1990. The second was the invasion of Greenville in October 1993. I had been confident that I was far from the battle front, but I was again engulfed by this senseless invasion...where civilians were easily slaughtered by both warring factions.”

A Liberian refugee, a former teacher.

The conflict in Liberia, which started in December 1989, has been marked by a blatant disregard for international human rights and humanitarian standards by all parties. The warring factions have terrorized the local population. Fighters have mutilated captives, using their victims' intestines to cordon off areas newly controlled by the victorious group. They have cut up human bodies and scattered them around villages. Many areas have passed under the control of successive warring factions and Liberia has effectively become a series of competing fiefdoms ruled by faction leaders.

There are as many as 11 factions fighting in Liberia. Civilians have suffered human rights abuses at the hands of virtually all of them. Among the most significant are the Armed Forces of Liberia (AFL) — the national army — often acting as an armed group independent of government control; the Liberian Peace Council (LPC) operating with AFL support; the National Patriotic Front of Liberia (NPFL) which has at times controlled large parts of Liberia; and the United Liberation Movement for Democracy in Liberia (ULIMO) — itself split along ethnic lines.

Despite a peace accord signed in 1995, armed conflict has continued sporadically in rural areas of Liberia. In April 1996, after several months of relative calm, bitter fighting broke out again in the capital, Monrovia, when police believed to be allied to the NPFL attempted to arrest Roosevelt Johnson, leader of the rival ULIMO-J. The initial protagonists were the NPFL and ULIMO-J, but all the other armed groups were later involved in the fighting. The AFL, the LPC and ULIMO-J fought together against the NPFL and its former rival, ULIMO-K. The civilian population was terrorized as mortars and gunfire filled the air. Armed faction members roamed the streets, looting, maiming and killing. The mutilated bodies of those killed were openly displayed.

The fighting centred on the Barclay Training Centre military barracks in central Monrovia. Rival armed groups controlled different zones of Monrovia and many thousands more refugees fled the country. A cease-fire in Monrovia was re-established in May 1996 and was reasonably successful, but fighting involving the two factions of ULIMO, the NPFL and the LPC continued in various parts of the country, in particular in Grand Gedeh, Tuzona and Zwedru.

All parties to the continuing conflict committed gross human rights abuses. Fighters from all the warring factions tortured and deliberately killed unarmed civilians suspected of opposing them, as they seized territory or raided another group's territory. All armed groups were responsible for deliberate and arbitrary killings of civilians, although in many cases it was not possible to establish which group was responsible.

The history of the civil war in Liberia is a catalogue of brutal abuses, the full extent of which may never be known. The war has resulted in the death of an estimated 200,000 Liberians and caused over 700,000 more to flee the country. In early 1997, more than 400,000 Liberian refugees were in Guinea, over 300,000 in Côte d'Ivoire, about 5,000 in Sierra Leone, and thousands more in Ghana and Nigeria (see also Chapter 4). At least one million people were internally displaced within Liberia itself. The bare statistics hide countless human tragedies. For example, in late September 1996, dozens of civilians were killed after clashes between ULIMO-J and ULIMO-K. At least 21 civilians were killed in Sinje, Cape Mount County, reportedly by ULIMO-K. One of those killed was a baby girl, whose skull had been fractured.

The deliberate incitement of hostility between different ethnic groups has been a key part in the war in Liberia. Armed groups are increasingly divided along ethnic lines and atrocities are regularly committed against civilians on the basis of their ethnic origins.

The major players in the Liberian conflict have each received support from other West African countries. Nigeria, which dominates the regional peace-keeping force ECOMOG, has supported armed factions opposed to the NPFL, especially during the early years of the conflict. The governments of Burkina Faso and Côte d'Ivoire have at times openly supported the NPFL. Guinean security forces have offered tacit support to the ULIMO-K faction. According to eye-witnesses, ULIMO-K in Guinea has been allowed to operate with the support of local government officials and members of the Guinean security forces of the same ethnic origin. Guinean authorities have arrested Liberian refugees suspected of supporting factions opposed to ULIMO-K.

International intervention in Liberia has not had a clear human rights element to its mandate. ECOMOG, the peace-keeping force sent to Liberia in 1990 by the Economic Community of West African States (ECOWAS), was initially less than impartial and in the past was itself reportedly responsible for human rights violations. The United Nations Observer Mission in Liberia (UNOMIL), sent in 1993 to monitor the cease-fire, has not been assertive in defending human rights, and has received little financial support from the UN.

The August 1995 Abuja peace accord was the most recent of a succession of attempts to resolve the conflict, none of which has yet brought lasting stability to Liberia. Sometimes this has been because of an inability to reach consensus within the transitional governing bodies, but Amnesty International believes it has also been because the agreements failed to pay sufficient attention to human rights. For example, despite the vital importance of ending impunity, atrocities committed by armed factions before August 1996 were not to be investigated or punished under the Abuja accord. The desire for peace has been allowed to override the need to bring those responsible for previous human rights crimes to justice — a crucial step in ending abuses.

In September 1996 a new government was formed, brokered by ECOWAS. A disarmament process began in November, but progress has been slow.

Liberia poses a particular challenge to restoring respect for human rights because the state as an entity has effectively collapsed. Responsibility for abuses is often difficult to determine. Not only is information hard to obtain and verify, but it is also difficult to ascertain where responsibility for abuses lies and who is in authority and in a position to stop them. The division between government and opposition forces is blurred. However, the simple fact remains that until respect for human rights is established in Liberia, its people will not be able to return home in safety.

### **The human rights challenge**

The scale of wars in Africa should not divert attention from the fact that governments and armed opponents alike are bound to abide by the basic principles of international human rights and humanitarian law. Common Article Three of the 1949 Geneva Conventions lays down minimum human rights principles to be observed in armed conflict. It prohibits attacks on non-combatants, torture and extrajudicial executions. A number of basic rights enshrined in international human rights treaties apply even in times of national emergency, such as war or internal conflict. Governments or armed opposition groups who wage war on defenceless civilians should forfeit international legitimacy — power carries with it the responsibility to protect human rights.

The international community should take heed of information warning of potential forced displacement. Increasing human rights abuses, especially abuses directed against civilians on the basis of their group identity, are often a sign of a political dynamic which will ultimately lead to mass flight.

Paying attention to early warning signs is of little use if governments do not have the political will to challenge the behaviour of their peers. Human rights principles, enshrined in international standards and treaties to which most governments are signatories, provide a legitimate international basis for action. The UN Security Council is prepared to take measures

against states which threaten the security of their neighbours, but rarely, if ever, because of human rights abuses against civilians in a government's territory. The OAU Mechanism for Conflict Prevention, Management and Resolution, established in June 1993, has not considered human rights concerns as being central to conflicts in Africa, except in the case of Sierra Leone.

The Commission of 20 on Refugees, a committee of ambassadors which has political responsibility for refugees within the OAU, has recently made a number of visits to African countries to assess the situation of refugees. The Commission has acknowledged that conflicts and violations of human rights are root causes of refugee problems. The Commission has an important role in ensuring that OAU member states fulfil their obligations under the OAU Refugee Convention and that other OAU mechanisms, such as the Conflict Resolution Mechanism, take into account the human rights needs of refugees and internally displaced people.

Human rights considerations must be built into the design of international humanitarian, peace-keeping and peace-building operations in a coordinated manner from the outset. Where political, humanitarian and human rights interventions are only loosely coordinated they risk undermining each other. Where they are inadequately planned and resourced, they cannot fulfil their complex but vital functions. The scale of human suffering and forced displacement in Africa is one clear outcome of the international failure to prioritize human rights.

### **3: The internally displaced**

There are an estimated 16 million people displaced from their homes in sub-Saharan Africa who have not crossed an international border and are therefore not recognized as refugees. The vast majority are women, children and the elderly.

They have fled the same violence and human rights abuses as refugees seeking sanctuary in neighbouring countries. Many have been displaced as a direct result of military action against civilians, as government forces and armed opposition groups seek to destabilize areas controlled by their opponents or to establish control over populations.

Internally displaced people are especially vulnerable to human rights abuse. Most have fled armed conflicts and now live in areas controlled by one or other of the parties to that conflict. They are often destitute, their crops destroyed and their livestock looted. Not only are they prey to hunger and disease, but their marginalization frequently leads to discrimination against them by officials as well as the local population. Many displaced populations are beyond the reach of international humanitarian organizations — and even where they are not, these organizations do not have a mandate to intervene on human rights issues. Once again, international interest is focused on relief, not human rights protection.

This chapter focuses on the more than four million people internally displaced in Sudan, but there are other African countries with a massive population of internally displaced people. In Sierra Leone more than two million people — almost half the population — were forced to leave their homes by internal armed conflict which began in 1991. They fled atrocities committed by both government forces and the armed opposition. Most remained in Sierra Leone, living with family or friends in the major towns, or in displaced people's camps. Around 360,000 became refugees in neighbouring Guinea and Liberia.

In Burundi a persistent cycle of ethnic violence and impunity has led to over half a million people displaced out of a total population of about five and a half million.<sup>7</sup> Members of the Tutsi ethnic group have mostly fled to camps protected by the Tutsi-dominated military who control the government. Members of the majority Hutu ethnic group have mostly fled to the marshes, the valleys and the forests, trying to avoid built-up areas. They are known as “dispersed”, rather than displaced, and face enormous assistance and protection problems. At the start of 1997, the Burundi authorities announced that they were going to set up camps for Hutu living in the countryside. UN and human rights organizations expressed concern that Hutu would be forced to stay in such camps, and that any who did not would be considered a “legitimate target” by

government forces and their supporters. There were also fears that those within the camps would be at risk of extrajudicial execution, “disappearance”, arbitrary arrest and torture by the security forces.

The sheer size of some African countries can determine whether people fleeing abuse cross a frontier or remain displaced in their own country. Sometimes the journey to a border is simply too long and dangerous to undertake. Sometimes borders are closed, as when Tanzania closed its borders to refugees from Burundi in 1995. Sometimes there are other factors. In 1994, French troops intervened in Rwanda. A large number of Rwandese fled after the departure of the international troops, but hundreds of thousands of people ended up in camps for internally displaced people such as that at Kibeho, where thousands were subsequently killed in April 1995.

### **Sudan: abuse and discrimination**

In Sudan’s long-running civil war, civilians have been attacked by the government’s armed forces, by pro-government militias and by armed opposition groups; 4.5 million people are internally displaced as a result. The civil war, which began with a rebellion in 1983 by a primarily southern-Sudanese based armed opposition group, the Sudan People’s Liberation Army (SPLA), has cost more than one million people their lives.<sup>8</sup> The war is being fought mainly in the south of Sudan and the adjacent areas of the Nuba mountains and southern Blue Nile.

Internally displaced people inside the war zones are scattered through remote countryside areas or live in camps and “peace villages” set up and controlled by the government or the SPLA. Outside the war zones they have sought refuge in towns and cities. There they have become the victims of discriminatory government policies.

Underlying the war are political, religious and ethnic tensions between mainly non-Muslim peoples who identify themselves as African and mainly Muslim sections of the population who define themselves as Arab. Southerners and Nuba regard themselves as politically and socially disadvantaged. Tensions have intensified since the National Islamic Front seized power in 1989 with a radical political agenda based on its own interpretation of Islam.

Successive administrations, including the current government, as well as the SPLA and other smaller armed factions, have attacked civilian communities, forcing people to flee. A key government tactic has been to exploit ethnic and resource rivalries between neighbouring communities by creating tribal militias.

Northern Bahr al-Ghazal, once one of the most densely populated parts of southern Sudan, has been ravaged by government-backed militias from the Rizeiqat and Misseriya ethnic groups from further north. Thousands of people have been extrajudicially executed, thousands of women have been raped and thousands of children have been abducted in two phases of assault, between 1985 and 1989 and between 1992 and the present day.

With their herds looted and crops and granaries destroyed, up to a million destitute women, children and old people have trekked northwards. Most of the men of fighting age have moved southwards with their remaining livestock onto the lands of neighbouring communities. Between 1986 and 1989, hundreds of thousands travelled to refugee camps in Ethiopia.<sup>9</sup> In 1991, over 400,000 people fled back into Sudan after the overthrow of the Ethiopian Government.

In 1992 assaults on civilians in Bahr al-Ghazal resumed when the army and the Popular Defence Force (PDF), a government-created and controlled militia, reopened the railway linking north and south Sudan. Each time a train travels along the line, the PDF clears civilians from a swathe of territory on each side. A survivor described an attack on the Luo village of Pankuel in 1993:

“There were 23 people killed. They tied and slaughtered them. The PDF came through the village. People heard them coming and hid in the bush. But some were caught.

“They tied them together two-by-two, back-to-back. Their arms were tied behind their backs at the elbows and their legs were tied at the ankles and the knee. Then they cut their throats.”

In this assault, like countless others, women were raped and children were forcibly abducted.<sup>10</sup>

In 1995 a former SPLA senior commander created a new militia group based in a government-controlled town in northern Bahr al-Ghazal. Villagers captured by the group are made to carry looted property back to the group’s base and are then “freed” into internally displaced camps around the fringes of the garrison town.

Hundreds of thousands of Nuba from South Kordofan have also been internally displaced by attacks by government forces. Nuba villages have been assaulted and burned down. Thousands of men and women have been extrajudicially executed, women raped and children abducted.

The SPLA and rival armed opposition movements in the south have also deliberately attacked civilian settlements. In 1991 a primarily Nuer-based breakaway group from the SPLA raided lands belonging to the Dinka Bor in southern Upper Nile, killing hundreds of people and displacing tens of thousands. Many are now in camps along the Ugandan border several hundred kilometres further south. They have been attacked from the air by the Sudanese air force and by Ugandan armed opposition groups aided by the Sudanese Government.

There is nothing accidental about internal displacement in Sudan. An analysis by the World Food Program found that in 1994 and 1995 attacks on civilians by government forces and allied militia in northern Bahr al-Ghazal particularly affected known areas of food surplus and were timed to cause maximum disruption to planting cycles.<sup>11</sup>

The government regards controlling the internally displaced as vital. Since 1992 it has organized the systematic clearance of whole Nuba communities from areas contested with the SPLA into so-called “peace villages”, often close to garrisons. Access to outsiders is restricted and some people who have tried to escape have been shot dead.

Many “peace villages” are sited close to intensive mechanized agricultural schemes growing crops for export. These schemes — a key element in the government’s economic development program — rely on a supply of cheap labour. An official review of Operation Lifeline Sudan, the UN emergency relief operation for the war-affected populations of Sudan, has pointed out “an un-comfortable connection between the Sudan Government’s economic development policies with regard to agriculture, its policies concerning the war-displaced, and its assertion of control over land in the context of internal warfare”.<sup>12</sup>

Women displaced to the “peace villages” and garrisons are vulnerable to rape and sexual exploitation by soldiers and PDF personnel. Few women are prepared to reveal that they have been raped; beyond the sense of personal degradation, rape is considered a social disgrace in Sudan. Many southern Sudanese and Nuba women use the phrase “taken as wives” by soldiers and PDF members to describe their ordeal.

Thousands of Nuba women are reported to have been raped by soldiers and PDF members. According to eye-witness accounts, villagers have been forced at gunpoint to garrisons where women have been forced to submit to sex under the threat of being beaten or shot.

“Peace villages” around Wau, the largest government-controlled town in Bahr al-Ghazal, also play the role of “human shields” against SPLA attack. The tens of thousands of people fleeing raids in northern Bahr al-Ghazal who fled to Wau were accommodated within the town until 1991, when the authorities created “peace villages” as a security buffer around the edge of the town.

Sudan is a huge country, the largest in Africa, and nearly two million internally displaced people have moved well beyond the war zones, seeking refuge in the towns and cities of northern Sudan. By 1994 there were estimated to be around 800,000 war-displaced people living in and around the capital, Khartoum, the majority of them southerners.<sup>13</sup>

Southerners and Nuba are widely seen as second class citizens and as supporters of “the enemy”, exposing them to discrimination and abuse. Sudanese law reinforces prejudice by differentiating between “squatters” — people who arrived in Khartoum before 1984 (mainly because of drought and famine in western Sudan) — and the “displaced” — people who arrived after 1984 (mainly southerners and Nuba fleeing the war). Squatters have the right to settle in Khartoum; displaced people do not.

In 1991 the government began clearing camps of internally displaced people in the capital and relocating them to large temporary camps well beyond the city limits. The clearances, which continue under the mantle of “urban planning”, are forced.<sup>14</sup> The authorities frequently bulldoze shacks with no warning. At least 39 people have been killed trying to protect their homes or salvage property. The new temporary camps around Khartoum lack sanitation, shelter and adequate water. Their distance from the capital means that opportunities for income generation are limited. Extremely high levels of malnutrition are reported.<sup>15</sup>

In their home areas, women from southern Sudan and the Nuba mountains can earn money from selling alcohol. However, under the Sudanese penal code, brewing and consuming alcohol are illegal. Internally displaced women often have few other options. Nyandeng Makwak, a Dinka woman imprisoned for brewing beer, has described her experience. Policemen searched her house late at night, found that she had alcohol and demanded a bribe. She was unable to raise the amount and so she was arrested. When she refused to sleep with the police officer who arrested her, she was taken to a Public Order Court and sentenced to six months in jail and a fine after a summary and unfair trial.<sup>16</sup> Although defendants have a theoretical right to defence counsel, trials are often immediate, leaving no time to find a lawyer, and internally displaced people rarely have the means or the contacts to get legal representation.

Internally displaced children are particularly vulnerable to arbitrary arrest. In 1994 official figures estimated that there were 25,000 “vagrant” children in and around Khartoum. In September 1992 the government began to implement a policy of rounding up “vagrant” children and taking them to special children’s camps.

Southern Sudanese and Nuba children are often seized by police if they are found on the street without an accompanying adult. They may be held for some days in police stations before being taken to the camps. There are reports of police beating such children.<sup>17</sup> In 1994 the government admitted that there were camps for children in Khartoum, Kosti, Geneina, Abu Dom and Durdib. Children are reportedly beaten if they try to escape and made to crawl naked on the ground.<sup>18</sup> Reports suggest that there are other camps in remote areas closer to the war zones where the treatment of children is even worse. For example, children were allegedly shot while trying to flee a camp at Abu Dikiri on the fringes of the Nuba mountains in April 1995.

Some children’s camps are reported to be run as schools for the teaching of Arabic and the Qur’an, although most of the children are non-Muslim. Some boys in the camps have been forcibly recruited into the army or the PDF. The SPLA also runs children’s camps where youngsters are directed into the armed forces. It seems, for example, that over 1,000 children at Omere camp were recruited to the SPLA in early 1995.

Children have also been abducted from the war zone and taken to the home areas of their captors in Darfur and Kordofan. Some are sold back to their families. Others are taken into domestic slavery, cleaning homes and looking after livestock. Children who try to escape run the risk of severe beatings and even death. In late September 1996, four Dinka boy slaves who escaped during inter-communal fighting between Rizeiqat and Zaghawa cattle nomads were hunted down by their “owner” and shot dead.<sup>19</sup>

While the law forbids abduction and slavery — the government denies that slavery exists — internally displaced people often dare not attempt to free their children. In September 1996 Maiwen, an internally displaced Dinka living in al-Obeid, located his 11-year-old daughter, named

Acol, in South Kordofan. When he tried to claim her he was beaten and tied to a tree for three days. His daughter, and her “owner”, disappeared. In a few cases police and local courts have intervened to free children but Amnesty International does not know of a single case where a kidnapper or slave-holder has been prosecuted.

### **Ways forward**

Governments and de facto authorities have primary responsibility for the human rights of internally displaced people. The international community cannot substitute itself for such authorities, but it can take action to press governments and other political entities to abide by international humanitarian law, and it can ensure that its own interventions give a high priority to human rights.

In 1992 the UN Secretary-General appointed a Representative for Internally Displaced Persons, who is developing a set of guidelines which will set out the rights of the internally displaced, based on existing international human rights and humanitarian standards. Amnesty International believes the Representative’s mandate should be strengthened and better supported to enable him to take an active role in pursuing specific instances of abuse.

Current protection for the internally displaced is limited. For those living in war zones, Common Article Three of the Geneva Conventions of 1949 prohibiting attacks on non-combatants is especially relevant. The International Committee of the Red Cross (ICRC) has an internationally recognized mandate to promote respect for international humanitarian law and to intervene on behalf of the civilian population in situations of armed conflict. UNHCR, which does not have a specific mandate to work with the internally displaced, intervenes in particular cases, at the request of the UN Secretary-General or other appropriate UN body, with the consent of the state concerned and if resources are available.

The majority of UN operational agencies which work with the internally displaced operate within a framework which divides humanitarian work from human rights protection. For most, meeting relief needs is the priority. There is, as a result, a lack of practical international activity to protect the human rights of the internally displaced.

According to the official review of UN Operation Lifeline Sudan, in northern Sudan “the lack of clarity with regard to the mandates of different UN agencies in applying existing international instruments for the protection of war-displaced populations” has resulted in “a major failure of UN and international policy”. The review concludes that “the fundamental issue of protection for the large, internally-displaced population within Sudan has remained unaddressed”.<sup>20</sup>

However, the southern sector of UN Operation Lifeline, which is led by the UN Children’s Fund (UNICEF), is an example of action to improve protection for internally displaced people which may be useful elsewhere. The southern sector works primarily in territory controlled by the SPLA and other armed opposition movements. It has attempted to build a consensus with these groups on a rights-based approach to action on behalf of the internally displaced. Ground rules for the delivery of humanitarian assistance have been agreed which include signed commitments to the UN Convention on the Rights of the Child and the 1949 Geneva Conventions. Mechanisms have been set up for investigating breaches of the ground rules. There is still a long way to go. Human rights abuses are still being committed by the SPLA and other armed groups in southern Sudan. But this represents an important attempt to bring humanitarianism and human rights together to secure the protection of some of the world’s most vulnerable people.

Amnesty International believes that all international operations on behalf of internally displaced persons should have a clear mandate for protection. Assistance only in the form of aid is not enough. No international agency should ignore human rights abuses. A strategy for addressing human rights concerns — coordinated at the highest level — must be at the heart of international operations.



#### **4: Still in danger**

Five armed men surrounded Pascal Murwirano, a 22-year-old Rwandese refugee, on 30 October 1996. He had sought shelter in an orphanage in eastern Zaire, hoping to avoid the conflict sweeping the area.

“‘Are you from Rwanda?’

‘Yes.’

Are you Hutu?’

‘Yes.’

‘Take off your clothes.’

“Pascal crossed himself. He unbuttoned the first button of his shirt and before he could unbutton the second one, he was shot. He took one bullet in the heart, four in the stomach and one in the head.”

This eye-witness account came from a Zairian refugee, one of thousands who fled into Tanzania in late 1996 in fear of their lives.

Refugees face the same human rights problems as everyone else. In countries where police and soldiers regard unarmed civilians as easy prey, they are at risk of extortion, arbitrary arrest, ill-treatment and extrajudicial execution. In zones of armed conflict, they are in danger of being killed, either deliberately or in an indiscriminate attack. However, refugees are even more vulnerable than other people — they are foreigners, with no possibility of protection from their own state, and they have lost their homes and livelihoods.

Under international law, host governments are responsible for protecting refugees. In countries where governments and their security forces violate the human rights of their own citizens, refugees are also at risk. Especially where official government policies discriminate against refugees, local people may also victimize and attack them.

The response of host governments towards refugees is always conditioned by wider political concerns. They may fear that the tensions or conflicts that led to refugee flight will spill over into their country. They may support one faction in the state from which refugees have fled. Domestic political factors also come into play. For example, the attitude of the Kenyan Government to refugees from Somalia is heavily influenced by the government’s own discriminatory policies towards Kenyan ethnic Somalis.

Refugees are sometimes still in danger from their own nationals, either from cross-border attacks by government or opposition forces or from political factions within the refugee population. Women are especially vulnerable. Often the sole providers for their families, they are at risk of exploitation and abuse by camp officials, security personnel and male refugees. Sexual abuse and exploitation of women is consistently under-reported by refugees and is often not taken seriously by the authorities.

This chapter outlines human rights problems confronting refugees in countries of asylum.

#### **Securing asylum**

Millions of Africans have successfully entered neighbouring countries in search of asylum, but crossing the border is always potentially dangerous. In apartheid South Africa, the government refused to recognize the concept of asylum and closed its border with Mozambique with a lethal electric fence. Scores of Mozambicans died trying to cross the fence between 1986, when it was built, and 1990, when the voltage was reduced. They were fleeing from a civil war actively promoted by the South African authorities.

Liberians who in May 1996 boarded boats to escape renewed fighting in Monrovia were refused permission to land in Côte d’Ivoire and, initially, Sierra Leone and Ghana. Turned away from one port after another, thousands of men, women and children remained crammed into

leaking boats with little food or water, practically no sanitation, and no certainty of when or where they would be allowed to land. There was not even enough room to lie down and sleep. Government officials prevented refugees leaving the boats, despite the appalling conditions, the desperation of the refugees, and the pleas of UNHCR officials and non-governmental organizations. After nine days confined to the freighter Bulk Challenger, 3,000 refugees were allowed to land and apply for asylum in Ghana.

Once refugees have entered a country, gaining recognition that they are refugees is essential for securing protection. Mozambican refugees who succeeded in entering South Africa in the 1980s were treated as illegal immigrants and risked imprisonment and expulsion.

Senegal has failed to recognize refugees from Mauritania as refugees, calling them “displaced people” and leaving them vulnerable to the ebb and flow of relations between the two countries. In 1989 tension between Senegal and Mauritania led to the expulsion of 100,000 Mauritanian Moors (and 20,000 Senegalese) from Senegal, while Mauritania expelled Senegalese and tens of thousands of so-called black Mauritians. In 1992 Senegal and Mauritania restored diplomatic relations, and subsequently food rations for refugees were progressively cut to put pressure on them to return home.

However, gaining asylum does not ensure that refugees will not be sent back. Kenya, for example, has periodically expelled refugees. In July 1996, more than 900 asylum-seekers from Somalia were sent back over the border by the Kenyan authorities, despite efforts by UNHCR to ensure that Kenya fulfilled its obligations under the OAU Refugee Convention.

It is often left to UNHCR to try to secure protection for refugees. UNHCR intervenes when governments expel refugees or close borders — frequently to no avail. UNHCR also plays an advisory role in individual asylum procedures in a number of countries.

Although most African refugees are given protection through group determination of their status, a minority, often urban refugees, have their status determined by individual proceedings under the terms of the UN Refugee Convention. These people can remain invisible in comparison with the far larger numbers of people arriving in the context of mass displacement.

Individual determination procedures can be complex and difficult for refugees to understand. Refugees may have no access to independent representation or adequate opportunities to appeal against decisions. In some countries, such as Kenya, the committee to determine refugee status has not functioned for several years, and UNHCR is in the contradictory position of both representing refugees and making decisions about which asylum-seekers qualify as refugees.

### **Refugee camps**

Many African states have restricted the freedom of movement of refugees by requiring them to live in camps or designated areas. Establishing camps is often the only way a host state can accommodate large numbers of people. However, a number of human rights concerns arise when refugees are forced to reside in camps.

Sometimes eligibility for food aid and other forms of assistance is expressly tied to camp residence. In order to receive humanitarian assistance, including food, electricity, latrines and a clinic, refugees from Mali and Niger in Algeria are required to stay in one of four designated refugee camps in the south of the country, in the heart of the Sahara desert. In Ghana, Togolese refugees living outside Klikor camp have received one-half the food rations which the World Food Programme provided to those in the camp.

Refugees who are found in unauthorized areas risk expulsion. One hundred and twenty-six Burundi refugees, arrested by Tanzanian officials because they were outside the authorized zone around the Kitali Hills camp and were allegedly involved in violence, were summarily returned to Burundi on 10 January 1997. Within hours of being handed over, 122 of them were shot dead by Burundi security forces.

Refugees living illegally outside camps are frequently rounded up by police and soldiers, sometimes violently. In Kenya any refugee found outside a designated camp can be charged, imprisoned or fined. Corrupt police officers arrest refugees and extort bribes from them. In late 1995, there was a police crack-down on non-Kenyans in Nairobi. Refugees were among more than 1,000 people taken to a temporary detention centre which was overcrowded and which did not provide sufficient food or adequate medical care. In March 1996 several Ethiopians linked to the Oromo Liberation Front, including seven refugees, were arrested in Nairobi. They were threatened with deportation to Ethiopia. UNHCR was able to secure their release only subject to their immediate transfer to a remote refugee camp, although one was allowed to return to his previous residence in Europe.

Refugees who choose to settle outside camps sometimes face official discrimination and exploitation in their dealings with the local population. For example, few Mozambican refugees in Zimbabwe in the 1980s were able to obtain work permits. Neither were they able to join trade unions. However, Mozambican migrant labour had long been used on farms and plantations in Zimbabwe. Farmers were able to exploit the vulnerability of illegal workers by paying them half the rates of Zimbabwean nationals. This naturally created ill-feeling among Zimbabwean agricultural workers unable to get work.<sup>21</sup>

The location of camps, for example in remote rural areas or close to borders, can place refugees in danger. Liberian refugees are required by the Ivorian authorities (who support the Liberian armed opposition NPFL) to live in villages close to the border with Liberia. There are many reports of NPFL attacks from inside Liberia in which refugees and Ivorian nationals have been killed.

The Sudanese armed opposition group the SPLA has abducted Sudanese refugees from Adjumani in Uganda, close to the border, among them men who had resigned from the SPLA but who had specialist skills. In 1994 a number of refugees were taken back over the border into Sudan where at least one, the doctor Karlo Madut Deng, was deliberately killed. More recently Sudanese refugees in northern Uganda have been attacked by Ugandan armed opposition movements operating from bases in Sudan and Zaire. In July 1996, for example, more than 100 refugees were deliberately killed by the Lord's Resistance Army at Achol Pii. Some refugees have begun to return to Sudan as a result.

In northern Burundi, the location of camps of Rwandese Hutu refugees near camps for internally displaced Burundi Tutsi has led to conflict. The internally displaced Tutsi resented international assistance for the Hutu refugees, and when the World Food Programme reduced the amount of aid being provided to the displaced Tutsi, violence erupted. An attack on Majuri camp in March 1995 led to the deaths of 12 refugees. Twenty-two others were wounded.

Ensuring adequate security in and around camps — and that camps are sited in locations that do not expose refugees to risk — is the responsibility of the host government, but may require other states to provide assistance and resources. However, governments often want to keep refugees in remote parts of the country. For example, in 1995 the Kenyan Government insisted that Somali refugee camps on the coast be closed on the grounds that they harmed Kenya's tourist industry and posed a threat to security. Thousands of refugees were transferred to camps in the northeast of the country, closer to the border with Somalia and in an area affected by banditry and insecurity.

More than one million Rwandese Hutu refugees lived in camps in Zaire and Tanzania after fleeing Rwanda in 1994. Most fled in fear of reprisals by the Tutsi-dominated RPF after the genocide. However, the mass exodus was also part of a deliberate strategy by the ousted authorities to retain control of a substantial part of Rwanda's population. Rwandese institutions and structures were transplanted to the refugee camps. Control over the distribution of food and water gave former government officials power over the lives of camp residents. Militias undertook

military training in and around the camps. They intimidated the refugee population and extorted a “war tax” to support their efforts to reinvade Rwanda.

Refugee leaders tried to stop people going back to Rwanda by circulating misinformation about the fate of refugees who returned, by threatening those who showed an interest in returning, and, sometimes, by brute force. A leaflet that circulated in Mugunga camp read:

“Of all those made to return by UNHCR, not one has survived... The Tutsi have taken all the belongings of the Hutu and the brave ones who dare to speak out are ruthlessly massacred.”

This control posed a problem for humanitarian organizations who saw their relief assistance being misappropriated for use by armed political groups. It created a security problem for the government in Rwanda. Above all, it posed a huge problem for the majority of refugees who were pawns in a continuing conflict.

Neither the Zairian nor Tanzanian authorities took adequate steps to prevent human rights abuses within the camps nor to apprehend people accused of participating in the genocide in Rwanda. In Zaire, UNHCR contracted a force of Zairian soldiers to provide camp security. This is reported to have reduced the level of common crimes such as theft, but it did not eliminate political violence. In both Tanzania and Zaire, a small number of people identified as “intimidators” were arrested; seven were deported from Tanzania to Rwanda in August 1996. However, it appears that in several such cases the individual refugees were not accused of participation in the genocide nor of abuse of other refugees.

Given the strength of the armed groups in and around the camps, it is arguable that the Zairian and Tanzanian governments were not in a position to disarm them. However, the speed with which the AFDL and Tanzanian forces emptied the camps in eastern Zaire and Tanzania in late 1996 suggests that lack of political will may also have played a part. Tanzania did appeal for international help to deal with problems in the camps in its territory but the required levels of international assistance were not forthcoming. Donor states were tiring of the costs of protection. The “durable solution” governments chose instead to endorse was the forcible expulsion of hundreds of thousands of refugees into an unsafe human rights environment in Rwanda (see Chapter 5). Under pressure, UNHCR co-signed that plan. The presence of “intimidators” in the camps allowed the international community to divert attention from its failure to bring about the conditions in Rwanda that would allow a safe and dignified voluntary repatriation.

In Zaire, lawlessness and insecurity were widespread — the authorities did not prevent abuses against refugees just as they failed to prevent abuses against their own citizens. The political authorities in Zaire were also supporters of the former government of Rwanda, and so unlikely to act against its forces.

As unrest grew in eastern Zaire during 1996, thousands of undisciplined and poorly paid Zairian soldiers were deployed in the area. They were responsible for widespread looting and assaults; the victims were refugees as well as Zairians. For example, Zairian soldiers were alleged to have extrajudicially executed 19 Rwandese refugees in Masisi in July 1996. Witnesses reported that the detainees were beaten to near unconsciousness by soldiers and then taken away to be killed at a remote spot. Sometimes Zairian soldiers allied themselves with civilian armed groups to attack refugees, exploiting and reinforcing ethnic hostilities.

In February 1997, UNHCR renewed an appeal for the establishment of a stand-by international force to separate out people not deserving international protection as refugees from genuine refugees. If these proposals are adopted, it is absolutely vital that such a force is firmly bound by human rights standards.

### **Abuses against women refugees**

The majority of refugees in Africa are women and children. Women are often solely responsible for the well-being of their families. They are particularly vulnerable to exploitation and abuse,

including rape, by camp officials, police and security personnel, criminals and refugee men. Women are under-represented in refugee leadership structures and often have even less access than men to grievance mechanisms and the law.

Sexual violence and exploitation by men taking advantage of refugee women's lack of power is widespread. In Djibouti, for example, refugee women from Ethiopia run the risk of being stigmatized as prostitutes. There are reports of police and other officials demanding sex in return for not deporting them.<sup>22</sup>

Somalis seeking refuge in Kenya from political violence in Somalia have come to a country which discriminates against its own ethnic Somali population. As the Somali state disintegrated in factional warfare in 1991, over 400,000 Somali refugees fled to Kenya. By late 1996 more than 130,000 remained. The majority of Somali refugees were settled in three refugee camps in the northeast of the country. Between April 1992 and November 1993 hundreds of Somali women were raped in and around these camps, often as they foraged for firewood or herded animals. Although the majority of rapists were bandits, many of them Somalis or Kenyan Somalis, a number of women were reportedly raped by Kenyan soldiers or police.

The official attitude to the situation was dismissive. In response to a question in the Kenyan parliament in early 1993, an Assistant Minister in the Office of the President denied the allegations of widespread rape. He stated that the claims were being made to "attract sympathy and give the government negative publicity". Many Somali women did not report incidents to the police because they feared reprisals by the police, or because they felt no action would be taken, or because of the shame attached to rape in their society.

Eventually, after pressure from human rights organizations, security in the refugee camps was improved. The government increased the number of police in the area, and UNHCR began a special women's project, which included fencing the refugee camps and contracting the Kenyan branch of the Federation of International Lawyers (FIDA) to provide legal services to refugees to enable action against alleged perpetrators. In March 1994 the government ordered a public inquiry into events at Dadaab in August 1992 in which security personnel were alleged to have violated the human rights of refugees, including women, but this has been repeatedly delayed. A serial rapist was successfully prosecuted in 1995. Although the number of rapes fell, they did not stop entirely.

The provision by a national women's non-governmental organization of legal services to refugees is a concrete example of a national human rights organization becoming involved in work with refugees. The project ended in mid-1995 and UNHCR has reabsorbed the work into its protection department.

The known frequency of sexual assault against women refugees is widely believed to be only a tiny proportion of the real extent of abuse. Ensuring adequate protection is vital, as is ensuring that women who have experienced abuse receive appropriate support and assistance and that action is taken to bring perpetrators to justice.

### **5: Repatriation — forced and voluntary**

Refugees cross international borders in search of safety. If they are not recognized as refugees, or if the host government decides it is no longer prepared to fulfil its legal obligations, they are sometimes sent back to the country from which they fled. The forcible expulsion of asylum-seekers to situations where their lives or freedom would be threatened is known as refoulement.

Refoulement is prohibited under international law, including the UN Refugee Convention, the OAU Refugee Convention and the UN Convention Against Torture. However, there are disturbing signs that across the world, including in Africa, governments are becoming less and less willing to respect the principle of non-refoulement.

African refugees who seek asylum in industrialized countries face hostility and racism in a climate of growing official reluctance to accept refugees. Fifty asylum-seekers from several African countries were forcibly expelled by Spain to Guinea-Bissau in June 1996, some without being given the chance to have their asylum claims examined. On arrival, they were imprisoned, beaten and tortured. When demonstrators in Guinea-Bissau protested in September 1996 at their treatment in Spain and Guinea-Bissau, police shot into the crowd, killing one protester.

It is generally accepted that what have become known as “durable solutions” are needed to address the problems of forced displacement. Nowhere is this clearer than in Africa where some of the world’s poorest economies are shouldering the burden of the world’s largest population of refugees. Currently, the most favoured “durable solution” is voluntary repatriation. Others are integration in the host country and resettlement in a third country.

In Africa there have been several successful voluntary repatriations, such as the return of over a million Mozambicans from Malawi and Zimbabwe in the early 1990s, following the end of the civil war. Voluntary repatriations are complex and difficult processes politically and logistically — and they raise many human rights issues. Voluntary repatriation should be promoted only if durable conditions of safety have clearly taken root in the country of origin.

The current promotion of voluntary repatriation as the preferred durable solution coincides with a growing disinclination among governments to integrate refugees or to resettle them. African governments have generally granted asylum on the understanding that it would be temporary and that refugees would return to their countries of origin when conditions had improved. However, the conflicts and patterns of gross human rights abuse which led to flight have rarely found speedy resolution. Generations have been born and raised in refugee camps, awaiting the possibility of return home. For example, most Rwandese Tutsi who fled to Uganda and other countries in 1959 were unable to return to Rwanda until after July 1994.

Some African governments are no longer willing to cope with large refugee populations. They complain of the substantial costs involved and the failure of the international community to shoulder its fair share. They point to the environmental degradation that results when hundreds of thousands of people establish camps in areas with fragile eco-systems. They highlight their concerns about insecurity in areas where armed groups are based in or around camps or where military forces in neighbouring countries mount cross-border attacks.

As a result, many African states, like governments in Europe and North America, are closing borders and refusing entry to refugees, turning boats back at sea, and sending refugees home before conditions have become durably safe.

### **Forced repatriation to Rwanda**

In late 1996, more than one million Rwandese Hutu refugees were forced out of Tanzania and Zaire in a series of events which challenges the whole international system designed to protect refugees.

The experience of the Rwandese repatriation underlines how easily protection principles may be sacrificed when political interests converge. Host states were tired of the burden and donor states were tired of the price tag — an estimated \$1 million per day. Rwanda was eager to encourage return as a means of demonstrating its credibility before the international community and deflecting some of the international aid from refugee camps to projects inside Rwanda.

Refugees paid the price for the international community’s failures. While there is no denying the political, military and logistical complexity of the situation, the international failure to act over a period of nearly two years allowed an intolerable situation to develop. In eastern Zaire, refugees were cut off from all humanitarian aid and subjected to brutal human rights abuses by all parties, including members of the former government of Rwanda, its army and militia, the AFDL and the Zairian security forces. About 600,000 people fled in a matter of days back into Rwanda.

In early 1997, there were still several hundred thousand refugees from Rwanda and Burundi in Zaire, receiving little or no humanitarian assistance.

In addition, in both Tanzania and Zaire the failure to protect refugees from intimidation meant that individual refugees were not in a position to take an informed decision about repatriation.

In early December 1996, the Tanzanian authorities and UNHCR issued a joint statement announcing that all Rwandese refugees (over 500,000 people) were expected to return to Rwanda by the end of the month. Around 300,000 refugees initially fled from camps in the Ngara region to avoid being forcibly repatriated.

There was a heavy military presence in the area. Tanzanian security forces intercepted the fleeing refugees and forced them to move towards the border. Tanzanian security personnel reportedly entered camps and forced refugees to leave. Aid officials said that 28 Rwandese refugees sheltering in a church in the deserted Benaco refugee camp were attacked by police at night, beaten and forced to join a column of refugees trekking towards the Rusumo border crossing. There were other reports of beatings and ill-treatment of some refugees. Several international humanitarian organizations were denied access to the camps by the Tanzanian authorities for several days and a number of priests who opposed the expulsions were deported by the Tanzanian Government. Senior Rwandese military and political officials were reportedly seen around the camps. Over 400,000 refugees were forced back to Rwanda by the end of 1996.

In the aftermath of the forced return, the Tanzanian authorities carried out cordon and search operations throughout the country to find refugees who went into hiding rather than face return. Five thousand Rwandese were rounded up and sent back to Rwanda in mid-January 1997.

The joint UNHCR-Tanzanian Government statement made no mention of continuing human rights problems in Rwanda. The Rwandese Government faces a daunting task in rebuilding legal institutions and improving human rights protection in the context of a bitterly divided society in which many people want revenge for the genocide. The authorities have made some encouraging promises — but the sad reality is that human rights violations are increasingly frequent. By February 1997, at least 100,000 prisoners were held in detention, many in life-threatening conditions. While many may be guilty of involvement in the genocide, many are believed to be innocent. The decimation of Rwanda's judicial system and the insufficiency of international initiatives to help rebuild it mean that most have little prospect of being tried in the near future. The first trials began in December 1996, but they failed to conform to international standards of fairness, and many defendants are likely to be sentenced to death. During 1996 and early 1997 there was also a marked escalation in killings by the military and armed opposition groups. Several hundred people were estimated to have been killed in January and February 1997, especially in the northern and western regions. Most were unarmed civilians, including young children.

More than one million people, almost 20 per cent of the population, were forced back before adequate human rights safeguards had been put in place in Rwanda, at a time when the justice system and the basic institutions of civil society were still in a fragile state. By early January 1997 at least 5,500 returned refugees had been arrested. Among them are undoubtedly people who had participated in the genocide. The government had given assurances that no one would be arrested without prior investigation by the procuracy. However, Amnesty International believes that in the short time available, not all these investigations can have been thorough. Some detainees were arrested in the context of disputes over ownership of land and property which have arisen when returning refugees have found their homes occupied by others. Given the bitter legacy of the genocide, false allegations against returning Hutu refugees are not uncommon.

Refugees were sent home to Rwanda without any meaningful prior effort to identify individuals suspected of involvement in the genocide or of belonging to armed opposition groups. There was no response to pleas to the international community made by human rights groups,

UNHCR and others, to provide the necessary military and financial resources to ensure that armed refugees would be disarmed and arrested when appropriate. Some of these individuals have been accused of a number of recent killings in Rwanda.

In Tanzania, no provision was made for those who feared individual persecution in Rwanda to exercise their right to seek asylum. Even in situations of mass repatriation, individuals who may have a continued need for protection must have the chance to have their case examined.

UNHCR has stated that it had no other choice but to participate in this return in order to ensure that it was as humane as possible. However, its endorsement of the forcible expulsion of refugees from Tanzania has raised serious concerns about the status of its protection mandate. Indeed, on 23 December 1996 — in the midst of the repatriation — UNHCR expressed concern that “local authorities (in Rwanda) do not have the capacity to deal with all the problems that are arising: arrests, public order, house occupation, land occupation, health problems, registration and distribution of assistance”.<sup>23</sup> At the same time, however, UNHCR continued to promote and assist the mass returns from both Zaire and Tanzania.

The greatest failure was at the level of donor governments. Their refusal to support the Tanzanian Government sufficiently put immense pressure on its ability to cope with the refugee situation. Their failure to assist in disarming the perpetrators of genocide perpetuated a situation in which Tanzania could justifiably argue that its internal security was at risk. Their wish to avoid paying to support refugee populations put pressure on all parties, including UNHCR, to come to a speedy resolution of the situation, regardless of the human rights consequences.

The outlook for human rights in Rwanda after the forced and rushed repatriations from Zaire and Tanzania is not hopeful. The UN Human Rights Field Operation in Rwanda (HRFOR), which has an important role in improving human rights protection in the country, has itself come under attack. In February 1997, five HRFOR staff were killed and others have been threatened or attacked. HRFOR withdrew its monitors from several areas. The role of local human rights organizations has also been seriously affected by increased insecurity. The desire of host states, donor states and Rwanda to find a quick solution to the refugee problem may well lead to patterns of violence which may in turn lead to further outflows of refugees.

### **Voluntary repatriation**

Refugee protection under international law is not necessarily permanent. It is a remedy to ensure that individuals are able to escape from situations of grave danger in their country of origin and that they receive the protection of another state, acting on behalf of the international community. If and when that danger has passed, refugees can be expected to return home.

In human terms this is not so straightforward. Probably most refugees do want to return home. However, years may pass with the prospect of safe return drawing no closer. People adapt and build new lives, integrating into their new community. Children are born who know only the country of exile. At a certain point refugees deserve the right to opt permanently for a new land.

In Africa, this has been allowed to a relatively small proportion of the millions of refugees across the continent. Instead, protracted human rights crises leave most African refugees in limbo for years and even decades, with no real sense of citizenship at home or abroad.

The UN Refugee Convention prohibits anyone from being returned to a situation where their life or freedom would be put at risk, and specifies that refugee status can be brought to an end if and when conditions in the country of origin change. The end of refugee status implies return home, but the Convention does not address the question of repatriation itself.

The OAU Refugee Convention, however, insists that repatriation should be voluntary in nature. It specifies that the “essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.”<sup>24</sup> UNHCR itself describes “voluntariness” as “the cornerstone of international protection with respect to the return of refugees”.<sup>25</sup>



Voluntary repatriation is clearly the best means of ensuring that refugees return home in safety and dignity. The decision whether conditions in a country of origin have changed to such a degree that danger has passed is difficult and politically sensitive; it should ordinarily be made by those directly affected. One survey of Mozambican refugees in Malawi discovered that nearly 25 per cent of refugees had relatives who had visited Mozambique to assess the situation for themselves.<sup>26</sup> However, refugees may not be able to obtain impartial or complete information. For example, some information used by Mozambicans was unreliable as a result of political pressures from supporters of both the opposition and the government.<sup>27</sup> Rwandese political factions deliberately misinformed refugees in Tanzania and Zaire.

Some refugees decide to return home, even before it has become safe to do so, regardless of whether an official repatriation scheme has been put in place. In such cases, the international community can do little but ensure that refugees are not put under undue pressure to return and that they have access to impartial and up-to-date information about conditions in the country of origin. Steps should also be taken to monitor their security once they have returned home.

If the international community does not adhere to accepted standards ensuring that repatriation is voluntary, then a standard for return based on human rights criteria is needed. Before governments and UNHCR promote a repatriation scheme, there must be clear evidence of a fundamental and lasting change in the human rights situation in the country of origin.

It is crucial that there be clear evidence that any return will be durably safe. This leads to the difficult and controversial question of who should assess safety. The assessment of safety must be made in an expert and impartial manner. Governments generally look to UNHCR to make this assessment. However, host and donor states also put pressure on UNHCR to initiate repatriation, when they tire of the costs and responsibilities of protection. UNHCR is therefore in a difficult, sometimes compromised position.

The recent experience in Tanzania is instructive. The pressure to return Rwandese refugees was such that UNHCR has said it had no other option but to cooperate. Faced with the prospect of imminent repatriation, UNHCR had to choose between standing aside in protest or providing what limited assistance it could. It chose to assist. Amnesty International is of the view that conditions had not yet become safe enough in Rwanda to justify promoting voluntary repatriation or imposing return.

It is not reasonable or appropriate to expect UNHCR to serve as both advocate for refugee protection and judge of when that protection should come to an end. Amnesty International believes that states should give urgent consideration to developing an independent system for assessing human rights conditions in countries of origin. A variety of expert sources, including UN and OAU human rights bodies and non-governmental organizations, are available, but are not always drawn upon.

In voluntary repatriation programs, UNHCR is also charged with actively monitoring the situation of returned refugees. This can only be done if the states concerned agree and if sufficient resources are made available. Protecting returnees requires a “different set of protection tools” to protecting refugees.<sup>28</sup> There is as yet no clear international agreement to what these should be.

While each situation is different, agreements for voluntary repatriation have to involve the government of the country of origin, the government of the host country, UNHCR and the refugees themselves — at a minimum. They should include detailed arrangements for monitoring the human rights (and other protection needs) of returned refugees. Such arrangements should include provisions for returned refugees to bring forward complaints of human rights violations, and mechanisms for investigation of such complaints, remedial and preventative action.

### **Conflict resolution**

Repatriation often depends on the success of conflict resolution. Protecting human rights should be integral to negotiations to resolve conflicts. Agreements on human rights principles — and

agreed mechanisms monitored by a neutral third party — can be a way of building towards peace. Final peace treaties need to incorporate specific human rights guarantees and mechanisms for implementation. These should include mechanisms for the return and human rights protection of refugees and internally displaced people.

The role of international and national non-governmental organizations is critical. Without neutral monitoring of the human rights situation, the tendency of political groups to make political capital out of alleged abuses can undermine the credibility and effectiveness of measures to protect human rights.

The history of Angola underlines the pitfalls of not having adequate mechanisms for the protection of human rights. The 1991 Bicesse Accords were implemented by a Joint Political-Military Commission composed of delegations from the government and the opposition União Nacional para a Independência Total de Angola (UNITA), National Union for the Total Independence of Angola. The Joint Commission was to implement the Accords on the basis of consensus, but the former enemies were unable to reach consensus on many issues. As a result, reports of political killings were not followed up and killings were committed with impunity.

The last vestige of restraint snapped after UNITA disputed the results of the September 1992 elections and withdrew its troops from the new joint army. War resumed, even more ferocious than the earlier conflict. Between October 1992 and January 1993 in Luanda alone, hundreds of UNITA members were rounded up by government security forces and civilians armed for the purpose, then extrajudicially executed. UNITA also carried out many hundreds of deliberate and arbitrary killings of government soldiers and officials before a new peace agreement, the Lusaka Protocol, was signed in Zambia in late 1994.

The Lusaka Protocol provided for the UN Secretary-General's Special Representative to chair the Joint Commission, thus including an element of arbitration. A Human Rights Unit was set up within the United Nations Angola Verification Mission (UNAVEM III) to monitor human rights, investigate reports of violations and submit cases to the Joint Commission. Although this was a small step in the right direction, it was insufficient. Moreover, the Joint Commission largely failed to take remedial action.

The atmosphere of mistrust, exacerbated by the recent conflict, was largely responsible for delays in completing the main tasks specified in the 1994 agreement. By March 1997, the incorporation of UNITA troops into the Angolan Armed Forces had hardly started and the proposed Government of National Unity and Reconciliation was not in place. UNAVEM III, originally scheduled to end in February 1997, was extended until 31 March 1997.

At the time of writing, March 1997, the UN had proposed replacing the verification mission with a follow-on UN presence which would include a strengthened human rights monitoring element. In Angola, as in all peace-keeping operations, the failure to monitor and remedy human rights violations discourages reconciliation, delays recovery from the effects of war and deters the return of refugees.

Africa today may require approaches to repatriation and conflict resolution quite different from those applied traditionally. In the past, repatriations usually involved refugees whose countries had recently achieved independence or changed to a democratic form of government. In the 1990s, they usually involve countries that have been riven by ethnic strife and civil war. For these, the process of reconciliation, if possible, will be long and arduous. Formal amnesties or human rights guarantees will be of little value to the returning refugee if they are not accompanied by the political will to put them into effect, and if they do not represent a genuine commitment by the people themselves to live together in peace. This is a political and social challenge that extends far beyond the resolution of a refugee problem and in some cases affects the continuing viability of the nation itself. Repatriation in these circumstances is therefore just one component of a long process that will require the mobilization of extended support and resources from many parts of the international community.

## **6: Conclusions and recommendations**

One third of the world's refugees and more than half the internally displaced are in Africa. Widespread disregard for human rights has caused their forcible displacement, increasingly in the context of wars characterized by ethnic violence.

An unknown number of African refugees have been forced to leave their countries because of individual persecution, often because of their political activities. Their needs for proper individual asylum procedures are not given sufficient attention.

The international system to protect refugees is in crisis. Donor governments are increasingly reluctant to give adequate support to large refugee populations. Host governments in Africa are increasingly unwilling or unable to bear the brunt of problems caused by their neighbours. Every day governments around the world are violating the principle of non-refoulement, the fundamental basis of refugee protection. UNHCR appears unable to ensure that states fulfil even their minimum obligations towards those forced to flee their country.

Internally displaced people face continuing human rights abuses. There is no international organization with a specific mandate to secure the protection of the internally displaced and international interest is focused on relief, not protection.

This report demonstrates that crises of forcible displacement cannot be resolved unless the underlying human rights issues are addressed. Amnesty International therefore calls on all governments to take concrete measures to prevent human rights violations and to live up to their obligations under international law to protect the fundamental human rights of their citizens. It also urges all armed opposition groups to abide by the principles of international humanitarian law.

Amnesty International believes that many armed conflicts that cause refugees and internally displaced people to flee are fuelled by outside powers that supply arms, personnel and expertise to protagonists known to disregard human rights. It therefore calls on all governments to end transfers of equipment and training for military, security or police forces where these are used to commit or facilitate human rights abuses.

Amnesty International reminds the world's governments of their existing obligations towards refugees and internally displaced people and urges them to ensure that these minimum standards are respected. Amnesty International calls on the international community to ensure that the full framework provided by international human rights law is applied to the protection of refugees and internally displaced people.

It is also time for the international community to face directly the challenge of protecting the internally displaced. Human rights protection should be incorporated in the mandate of international interventions, so that UN and other agencies operate within an agreed and coordinated human rights framework. All should work towards ensuring that governments and armed opposition groups abide by fundamental human rights and humanitarian principles in their treatment of the internally displaced.

African non-governmental organizations are well positioned to contribute towards securing protection for refugees and internally displaced people. For example, they can provide advice and support to refugees and the internally displaced on human rights issues, and can promote awareness of the causes of refugee flight and the rights of refugees among the general public. In addition, African non-governmental organizations can lobby their own governments, the OAU, UNHCR and other appropriate bodies over refugee policies and human rights abuses against refugees.

The main thrust of Amnesty International's work is to combat the human rights abuses that force so many people to flee their homes in terror. The following recommendations outline the minimum steps necessary to protect the human rights of refugees and internally displaced

people so that they are safe from further harm and are treated with the dignity that their circumstances demand.

### **1. Stop the causes of forcible displacement**

Human rights abuses cause forcible displacement. Putting an end to abuses therefore lies at the heart of preventing displacement and allowing the displaced to return home.

- \* Governments and armed opposition groups should take action to prevent human rights abuses, including extrajudicial executions, indiscriminate killings, rape, arbitrary detention, torture and “disappearances”. In armed conflicts, non-combatants should be protected from attack.
- \* Governments should act on their responsibilities under international law to prevent human rights abuses by private individuals. This is particularly important in ensuring the protection of vulnerable groups, such as women and children, from forcible abduction, sexual assault and exploitation.
- \* Governments should ensure that there is no impunity for people who violate human rights. There should be prompt and impartial investigations into reports of human rights abuses and those found responsible should be brought to justice.
- \* Armed opposition groups, already bound by international humanitarian law in situations of internal armed conflict, should make public their commitment to abide by the principles of international human rights treaties and should translate these principles into practice.
- \* UN and OAU member states should take action when warned of developments likely to lead to forcible displacement. Human rights reports by the UN, OAU and other reputable bodies should be an integral part of developing international systems providing early warning of impending political, humanitarian and human rights disasters.

### **2. Ensure that internally displaced people are protected**

The discrepancy between the protection accorded to refugees outside their country and the lack of protection for those who are internally displaced should receive greater international attention.

The issue of the protection and assistance needs of the internally displaced is especially urgent in view of the increasing number of such people in Africa and elsewhere in the world and their particular vulnerability to gross human rights abuses.

- \* Measures taken by the international community for the protection of internally displaced people should not limit their right to seek and to enjoy asylum in other countries.
- \* All states should support the work of the UN Representative for Internally Displaced Persons by allowing access to their countries and by providing adequate resources. The role of the Representative should be strengthened to allow identification of the perpetrators of human rights abuses against internally displaced people, so as to ensure that they are held to account.
- \* The international community should take concrete measures to ensure that internally displaced people are protected. The Representative should develop guidelines for the pro-

tection of internally displaced people, based on the full range of existing human rights and humanitarian law, addressing any current gaps in the protection of internally displaced people.

- \* Human rights protection should be incorporated in the mandate of international interventions so that UN and other agencies operate within an agreed and coordinated human rights framework aimed at ensuring that governments and armed opposition groups honour their responsibilities to the internally displaced.
- \* Governments and armed opposition groups in control of territory should allow relevant UN, intergovernmental and non-governmental organizations working on behalf of the internally displaced to have access to displaced people.

### **3. Protect the rights of refugees in situations of mass exodus**

Mass human rights violations cause mass exodus. In Africa, when hundreds of thousands of people flee their country, governments often grant asylum to the whole group under the terms of the OAU Refugee Convention. In effect, there is a prima facie presumption of refugee status. Before any person who has been part of a mass exodus is returned to the country they fled, they should be given an opportunity to identify themselves as having individual grounds for continuing to fear persecution if returned.

- \* In situations of mass exodus, asylum-seekers should be admitted to the state where they first seek refuge. If that state is unable to admit them on a long-term basis it should always admit them on at least a temporary basis pending arrangements for a durable solution. In all cases the fundamental principle of non-refoulement, including non-rejection at the frontier, must be observed scrupulously.
- \* Asylum-seekers in mass exodus situations should not be penalized or treated unfavourably solely on the grounds that their presence in the country is considered unlawful. They should not be subjected to restrictions on their movements except those which are necessary in the interest of public health and public order.
- \* States where large groups of refugees seek asylum should respect the refugees' fundamental civil rights and should ensure that they have the basic necessities of life.
- \* States should provide the means for asylum-seekers to stay in a place of safety. This should not be close to dangerous border areas.
- \* All governments should provide effective assistance, including financial support and resettlement opportunities, to states that host large numbers of refugees, for as long as it is required.
- \* Governments should ensure that all those given protection have the right to have their individual case for asylum examined before they are removed from the host country.

### **4. Protect the rights of refugees**

The fundamental basis of international refugee law is the principle of non-refoulement. This prohibits states from sending anyone against their will to a country where they would be at risk of serious human rights violations. Rejection at the frontier violates the principle of non-refoulement. The principle of non-refoulement is a norm of customary international law, and is binding on all states. Other international human rights instruments, including the OAU Refugee Convention, also prohibit refoulement in all cases where a person would be at risk of serious human rights violations.

- \* OAU member states should, as a minimum, abide by the provisions of the OAU Refugee Convention.
- \* States must scrupulously observe the principle of non-refoulement, and not forcibly return refugees, in any manner whatsoever (including rejection at the frontier and interdiction at sea), to territories where they may face serious human rights violations.
- \* States should adhere to the full range of inter-national human rights standards so that no one is sent back to a situation where they may face grave human rights violations, such as torture, “disappearance” or extrajudicial execution.
- \* States should ensure that individual asylum-seekers are referred to an independent and specialized body responsible for deciding asylum claims. Border officials should never decide claims.
- \* States should ensure that the principle of non-refoulement applies irrespective of whether an asylum-seeker has been formally granted refugee status.
- \* States should not penalize asylum-seekers for illegal entry.
- \* The Commission of 20 on Refugees of the OAU should ensure that OAU member states fulfil their obligations under the OAU Refugee Convention and that other OAU mechanisms take into account the human rights needs of refugees and internally displaced people.

### **5. Recognize and meet the special needs of particular groups**

Certain categories of refugees and internally displaced people, in particular women and children, have special protection needs because of their particular vulnerability or circumstances.

- \* All states should, as a minimum, adopt and implement the recommendations of the UNHCR Guidelines on the Protection of Refugee Women. These address the particular concerns of women while in flight, in camps and during asylum determination procedures.
- \* Governments should recognize that women may be forced to flee as a result of persecution in the form of sexual violence or other gender-related abuses.
- \* Governments should offer protection to women who fear persecution because they will not conform to, or have transgressed, gender-discriminating religious or customary laws or practices of their society.
- \* Governments should take measures, including following guidance issued by UNHCR, to address the special protection needs of unaccompanied minors and of children in their own right. States should also implement the provisions of the UN Convention on the Rights of the Child relating to children seeking refugee status.
- \* Governments should take steps to protect refugee and internally displaced women and children from abuse by private individuals.

### **6. Base repatriation programs on human rights standards**

The internationally agreed guiding principle on repatriation states that “the voluntary and individual character of repatriation and the need for it to be carried out under conditions of absolute safety...should always be respected.” Recent repatriations in Africa have amounted to premature, forced and coerced return to less than safe conditions. Any decision on repatriation should be based on an independent, impartial and objective assessment of the human rights situation in the country of return, to establish whether conditions are durably safe.

- \* The principle of non-refoulement must never be violated by repatriation schemes. Repatriation programs should include human rights guarantees at all stages of the return.

Repatriation should not be imposed until there is a fundamental and lasting change in the human rights situation in the country of return.

- \* The human rights situation in the country of return should be subject to an independent and impartial assessment based on publicly available information before, during and after any repatriation. International human rights treaty bodies, thematic mechanisms and country rapporteurs should have an active role in this assessment.
- \* The international community, including governments, international organizations and non-governmental organizations, should immediately agree on how to provide an independent human rights assessment and monitoring system for repatriation programs. They should determine what type of organizations and agencies should be involved on an ongoing basis.
- \* Efforts should be made to ensure the involvement of a representative cross-section of the refugee community in assessing when return is possible.
- \* Governments in countries from which refugees have fled should cooperate with UNHCR, other international organizations, and non-governmental human rights and humanitarian organizations in the pursuit of durable solutions to refugee problems.
- \* Individuals should have the right not to repatriate without an adequate opportunity for an individual assessment of their asylum claim.
- \* When refugees are repatriating spontaneously rather than as part of an organized program, governments, UNHCR and other agencies should ensure that refugees are not put under undue pressure to return, that they have access to impartial information about conditions in their country of origin, and that measures are taken to ensure the safety of returning refugees.
- \* Refugees who have been born in exile or who have spent many years integrated in their host country should be allowed to opt for permanent residence.

### **7. Build public support for the rights of the forcibly displaced**

Governments in countries of asylum often obscure the relationship between human rights violations and the protection needs of refugees and the internally displaced. Many governments have justified restrictions on access to refugees on the grounds that they are responding to economic difficulties or anti-immigrant attitudes and growing xenophobia within their societies. Some non-governmental human rights organizations have been slow to take up the human rights of refugees and the internally displaced.

- \* Host countries should conduct public information campaigns drawing attention to the human rights concerns underlying the plight of refugees and the obligations of states to protect them.
- \* Non-governmental organizations and other parts of civil society should consider ways to promote the rights of refugees and internally displaced people.
- \* The human rights community should recognize that it has a particular responsibility towards the human rights of refugees and the internally displaced.

### **8. Incorporate human rights principles into conflict resolution**

Peace processes must incorporate human rights protection in order to end the causes of forcible displacement and to protect those who are forcibly displaced. They should create the conditions in which people can return in safety and dignity to their homes, under repatriation programs or programs for the reintegration of internally displaced populations.

- \* Human rights questions should be on the agenda of all peace-building and peace-making processes. Human rights principles may provide a framework for negotiation and finding agreement.

- \* Peace settlements should specify the rights and standards which the parties are bound to respect in transition and post-settlement periods and they should specify a clear and workable human rights verification mechanism. The rights and protection needs of refugees and internally displaced people should be explicitly recognized and provided for.
- \* UN and OAU member states (and others involved in facilitation or mediation) should ensure that effective and independent protection and verification measures are built into peace settlements and plans for their implementation.
- \* The UN should ensure that its own human rights bodies and experts are fully involved in the design, planning, implementation and follow-up of the human rights measures decided, in particular through the deployment of properly resourced human rights field officers.
- \* The OAU Conflict Resolution Mechanism should incorporate human rights issues in its initiatives aimed at finding lasting solutions in situations of conflict. It should ensure that measures to protect human rights are included in peace agreements and that mechanisms are created to guarantee accountability for past human rights abuses.
- \* The international community should provide effective and consistent political and practical support for measures to protect human rights from the outset, and should maintain the necessary support during post-conflict peace building and reconstruction.

### **9. Strengthen the sharing of international responsibility**

States should not bear a disproportionate share of the responsibility simply because of their geographic location. African states hosting refugees should receive the full support of the international community. UNHCR should be able to operate without political interference by governments and with secure funding.

- \* All states should share equitably the responsibility for hosting refugees and funding their support.
- \* UNHCR funding arrangements should be reviewed to create an adequate mechanism for funding programs and, in particular, to improve support for those states which bear the overwhelming responsibility for hosting refugees.
- \* UNHCR should be enabled to implement in full its protection mandate and should be shielded from the political agendas of donor countries.
- \* “Responsibility sharing” should not be used to prevent refugees from seeking asylum in the country of their choice or to limit protection to the region of origin.

### **Endnotes**

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- 8 The most detailed research into casualty figures in Sudan's war has estimated that 1.3 million people were killed between 1983 and 1993 (Quantifying genocide in the southern Sudan 1983-1993 by Millard Burr, US Committee for Refugees).
- 9 See Amnesty International, Sudan: Human rights violations in the context of civil war (AI Index: AFR 54/17/89), December 1989.
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- 21 African Exodus: refugee crisis, human rights and the 1969 OAU Convention, Lawyers Committee for Human Rights, July 1995.
- 22 Sexual violence against women refugees in the Horn of Africa, by Kabahenda Nyakabwa and Caroline Lavoie, in African Women, Issue 10, March - September 1995.
- 23 Great Lakes Crisis, UNHCR, 23 December 1996.
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- 25 Voluntary Repatriation: International Protection, UNHCR, Division of International Protection, 1996, p10.
- 26 Mozambican refugees: preparing for repatriation by Stella Makanya, Centro Informazione e Educazione allo Sviluppo (Maputo), 1992.
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- 28 Note on International Protection, submitted by the UN High Commissioner for Refugees to EXCOM A/AC.96/830, 7 September 1994.

Front cover photograph: Refugees forcibly expelled from Tanzania in late 1996 to face an uncertain future in Rwanda. © AP

A displaced child collects wood in Somalia. © Oxfam

Rwandese refugees in Zaire. © Howard J. Davies

A refugee from Burundi in Tanzania. © Crispin Hughes/Oxfam

Refugees fleeing violence in Liberia trapped aboard a ship when refused permission to land.  
© Jon Spaul

A Dinka woman: hundreds of thousands of Dinka have been uprooted from their homes in Sudan by violence and human rights abuse.  
© Crispin Hughes/Panos Pictures

Southern Sudanese forcibly displaced to squatter camps in Khartoum. © Panos

The majority of refugees are women and children. © Sebastião Salgado

Mozambican refugees return home. © Sebastião Salgado

A Rwandese child arrives back from Zaire, November 1996. © UNHCR

An Angolan woman and her daughter in a camp for the internally displaced north of Luanda, Angola.  
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