GREAT LAKES REGION

Refugees denied protection

The lives, dignity and security of thousands of refugees in the Great Lakes region of Africa are once again under threat. Standards of refugee protection in Tanzania have dropped dramatically again since late 1999 as scores of Burundian and Rwandese refugees have been forcibly returned to their countries in violation of Tanzanian law and international refugee law, including the Organization of African Unity's 1969 Convention Governing Specific Aspects of Refugee Problems in Africa. In a particularly blatant case, in February 2000 two Rwandese refugees were forcibly returned from Tanzania and three others from Burundi; they remain in custody in Rwanda. The Government of Tanzania has also failed to take sufficient action to protect women refugees from human rights abuses.

Amnesty International is appealing to the Governments of Tanzania, Burundi and Rwanda to respect the rights of refugees and to the Governments of Tanzania and Burundi to live up to their international and regional obligations to respect the principle of non-refoulement and to take immediate action to prevent further forcible returns.

Refoulements from Tanzania during 2000

Thousands of Burundian and Rwandese refugees, many of whom have relatives in the border region of Tanzania, have settled in villages in the area where they could fully integrate into the community and carry out farming or other economic activities, rather than stay in designated refugee camps. The camps, which are run by the Tanzanian Ministry of Home Affairs, are large and overcrowded; freedom of movement and employment are severely restricted. Many of the refugees in the villages have been living in Tanzania for over two decades and are fully integrated into the community life. When refugees are in exile for such long periods of time, it is generally accepted as good practice that if there is no early likelihood or prospect of voluntary repatriation or return, refugees should be encouraged to engage in activities which enable them to earn a living and decrease dependency on aid. In practice, this usually means that at least some of their family members need to live outside refugee camps.

In late 1999, a written announcement was issued by the Tanzanian military authorities in Kagera region, northwestern Tanzania, ordering all Burundian and Rwandese

refugees go to refugee camps. However, it is not clear how much effort was made by

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the authorities to reach those concerned and to ensure that all those living outside the camps were informed of the order to move. From February 2000 onwards, the Tanzanian immigration authorities proceeded to arrest, detain and forcibly return hundreds of Burundian and Rwandese refugees living in villages. The areas particularly affected have been Biharmulo district and Ngara. Over 80 Rwandese and 580 Burundian refugees are known to have been forcibly returned to their countries of origin; scores of others are reported to be in detention in Tanzania awaiting possible *refoulement*. The majority of these refugees have been denied the opportunity to contact their families or collect their belongings; many families have been separated.

People who were not able to produce identity cards or certificates of Tanzanian naturalization have been arrested, taken into custody and returned to their countries of origin.² It is virtually impossible for the refugees, even those who have been in Tanzania for decades, to have the identity documents which could protect them from such abuses. Although in the 1970s, there was an attempt by the Tanzanian authorities to register refugees and to provide them with appropriate documents, the necessary census did not take place, primarily because of a lack of resources, and the documents were never issued.

It has become clear that the political will is no longer there to accommodate refugees, even those who have been in Tanzania for decades. The actions of the Tanzanian authorities reflect mounting xenophobia and increased hostility towards refugees, who are blamed rightly or wrongly for incidents of violent crime in the border area. There is tension between the governments of Burundi and Tanzania because of allegations made on a regular basis by the Government of Burundi that Tanzania is harbouring and training members of armed opposition groups currently fighting the Burundian army. However, these allegations are not new. According to some observers, the shift in policy in Tanzania is more likely to be linked to forthcoming legislative elections in Tanzania, due to be held in October 2000.

In forcibly returning these refugees, the Tanzanian authorities have not only violated the 1951 Convention Relating to the Status of Refugees (the Refugee Convention) and the 1969 Organization of African Unity (OAU) Convention Governing Specific Aspects of Refugee Problems in Africa, but their own national legislation.

¹Under the 1998 Refugees Act which came into force in Tanzania in February 1999, it is illegal for any refugee to live outside any of the designated areas (camps). Failure to comply is punishable by a six-month prison sentence.

²In reality not all Tanzanian citizens can produce identity cards. A number of Tanzanians have also been arrested, but none are known to have been sent to Rwanda or Burundi.

Although sources in Tanzania have claimed that the number of arrests and forcible returns is diminishing, and no refugees are reported to have been forcibly returned in May, over 220 Burundian refugees were forcibly returned to Burundi in April. However, Amnesty International is concerned about these blatant violations of the rights of refugees and believes that the safety of remaining refugees remains in doubt.

Refoulement of Burundian refugees

Over 580 Burundian refugees have been forcibly returned from Tanzania since February 2000. The refugees have been taken to Muyinga province, in northeastern Burundi. Although many of them had been in Tanzania for many years - most since 1993 but some since 1972 - others had only recently arrived. The majority were given no opportunity to contact their families or collect their belongings. In one case, in February 2000, 22 male refugees from Rulenge village, near Ngara, were sent to the border and immediately expelled despite having been told that they would be allowed one week to regularize their situation. Burundian women refugees and children who were arrested with them were sent to Mbuba reception facility.

Amnesty International is concerned for the safety of the Burundians who have been forcibly returned and fears they could face serious human rights abuses in Burundi. Four male refugees who were returned to Burundi on 19 February 2000 were arrested on their arrival and detained at Muyinga *brigade* (gendarmerie detention centre). Amnesty International is seeking further information on their cases and confirmation as to whether they are still detained. Armed conflict is rampant in many provinces of Burundi, including those along the Burundi/Tanzania border. Gross human rights violations including killings of unarmed civilians and arbitrary arrests followed by torture and or "disappearance" are common in Burundi. Much of the population inside Burundi is internally displaced. Over 35,000 Burundian refugees have arrived in Tanzania since January 2000 alone, fleeing the conflict.

Furthermore, following the killing of two expatriate members of the United Nations in Rutana Province, southern Burundi, in October 1999, the UN and other

³A minority of Burundians who have been forcibly returned are appear to be economic migrants, rather than to have fled because of the human rights situation in Burundi.

⁴Up to 800,000 people are reported to be internally displaced in Burundi, of whom some 270,000 were forcibly displaced by the government in late 1999 and are confined to camps by members of the government armed forces. Conditions in such camps are appalling. For further details, see Amnesty International news service, *Burundi: Civilians dying around the capital while hundreds of thousands are forcibly moved*, 29 September 1999 (AI Index AFR 16/21/99) and report, *Burundi: Forced relocation: New patterns of human rights abuses*, 15 July 1997 (AI Index AFR 16/19/97).

humanitarian organizations dramatically scaled down their activities in Burundi. All those deemed to be non-essential staff were withdrawn. Although a new security agreement has been drawn up between the UN and the Government of Burundi, in May 2000 the activities of the UN High Commissioner for Refugees (UNHCR) are still hampered by insecurity. Although the UNHCR local staff have tried to receive the refugees who have been forcibly repatriated, they are unable in current conditions to provide adequate humanitarian assistance or sustained monitoring of the returns.

Refoulement of Rwandese refugees

At least 80 Rwandese refugees have been forcibly returned from Tanzania to Rwanda since February 2000. A first wave arrived in Kibungo *préfecture*, in eastern Rwanda, on 4 February; others arrived in the following days and weeks. At least 74 arrived in the *commune* of Rusumo, in Kibungo, between 4 and 15 February 2000. It would appear that they were rounded up randomly by members of the Tanzanian police or immigration services in Karagwe, Biharamuro and Bukoba districts, in the Kagera region. Those who could not produce valid identity documents or certificates of Tanzanian naturalization were forcibly returned. They included men, women and children. Some were reportedly detained in Tanzania for up to a week before being taken to the border.

Among those forcibly returned in this way were Rwandese who had settled in Tanzania since the 1960s and had effectively been living as Tanzanians for many years (many of the younger generation had never even lived in Rwanda); others had arrived in the 1970s or 1980s in search of work; and others had been among the hundreds of thousands of refugees who fled Rwanda at the time of the genocide in 1994 but had managed to avoid the mass forced repatriation of December 1996. ⁵

Many were separated from their families as they were picked up along the road or as they worked the land, and were not allowed to collect their belongings. For example **Thérèse Nyirabashumba**, aged 50, was forcibly returned to Rwanda, leaving behind two of her children, **Murekatete**, aged 17, and **Ntacyomenyereye**, aged 10. Similarly, **Francis Malikiyori**, aged 41, who had been living in Tanzania since around 1960, was separated from his wife and five children when he was made to return to Rwanda.

⁵ For details, see Amnesty International report, *Rwanda: Human rights overlooked in mass repatriation*, January 1997 (AI Index AFR 47/02/97).

It is the undeniable right of these refugees to make the choice themselves on whether it is safe to return to Rwanda. The human rights situation in Rwanda remains serious, with frequent cases of arbitrary arrests and unlawful detentions, ill-treatment and prolonged detention without charge or trial. Cases of "disappearances" and killings are also still reported.

Five Rwandese in custody after forcible return from Tanzania and Burundi

On 5 February 2000, five men who had fled Rwanda in fear for their lives were forcibly returned from Tanzania and Burundi and were immediately arrested on return to Rwanda. In April 2000, **Bertin Murera**, a military officer of the Rwandese Patriotic Army (RPA), **Innocent Byabagamba**, an RPA soldier, **Janvier Rugema**, a demobilized RPA soldier, **Benjamin Rutabana**, a demobilized RPA officer and a musician and songwriter, and **François Rukeba**, a civilian businessman, all remain in custody in Rwanda.

Bertin Murera and Benjamin Rutabana fled Rwanda on 24 January 2000, after hearing that the Rwandese authorities were planning to arrest them, apparently accusing them of helping the former speaker of the Rwandese National Assembly, Joseph Sebarenzi Kabuye, flee Rwanda. They first applied for asylum in Burundi, but decided it was not safe to stay there, because of the close relations between Burundi and Rwanda. They then travelled to Kigoma, in Tanzania, where they arrived on 31 January. On 4 February, Tanzanian police, reportedly accompanied by a Rwandese security agent, arrested the two men at the hotel where they were staying in Kigoma. They were taken to Ngara, near the Rwandese border, forcibly returned to Rwanda on 5 February and immediately taken into military custody.

The Tanzanian police appear to have arrested them at the request of the Rwandese authorities, who had reportedly claimed that the men were wanted in connection with a murder and robbery in Rwanda. It is not known whether there is any substance to these accusations. However, following their forcible return to Rwanda, it was reported that the accusations had changed and that they were being accused of

⁶ For details, see the Amnesty International report, *Rwanda: The troubled course of justice*, April 2000 (AI Index AFR 47/10/00).

⁷ Joseph Sebarenzi Kabuye was forced to resign as speaker of the National Assembly in Rwanda on 6 January 2000 and excluded from the National Assembly on 18 January. He was widely regarded as an independent politician, willing to denounce abuses and speak out against corruption. After his resignation, fearing for his safety, he fled to Uganda before seeking asylum in another country.

desertion and complicity to desertion. The Rwandese authorities initially claimed that the arrests had taken place on the basis of an INTERPOL warrant, allegedly at the request of the Indian Consulate in Kigali, in connection with the killing of an Indian national. However, the Indian Consulate has denied making any such request. The status of the INTERPOL warrant remains unclear.

Janvier Rugema, Innocent Byabagamba and François Rukeba were forcibly returned from Burundi to Rwanda, also on 5 February 2000. Janvier Rugema, who arrived in Burundi on or around 20 January was arrested on 2 February by members of the Brigade spéciale de Recherche (BSR), Gendarmerie Special Investigation Unit. He was detained at the BSR until 5 February when he was returned to Rwanda. circumstances of their return to Rwanda are not clear. However it appears François Rukeba and Innocent Byabagamba were sent back to Rwanda by plane, whereas Janvier Rugema was reportedly driven back across the border by road. All three were handed over to the Rwandese authorities on arrival and detained in military custody. None of the three are thought to have sought asylum in Burundi. The date of arrival in Burundi of François Rukeba and Innocent Byabagamba is not confirmed. Torture and ill-treatment of detainees is routinely reported at the BSR, and according to some sources, these three detainees may have been subjected to torture. Although Janvier Rugema, Innocent Byabagamba and François Rukeba are not known to have officially sought asylum, Amnesty International considers them to have been refugees, who had fled Rwanda for their safety and who had a well-founded fear of human rights violations if returned.

Initially all five men were held in a military detention centre at Kanombe, near the capital Kigali. Amnesty International is seeking further information on allegations that they were tortured at the time of or soon after their forcible return from Tanzania. In early March they were visited by members of the National Human Rights Commission of Rwanda, who reported that they appeared to be in good health. Subsequently they were allowed to receive visits from their relatives. In March, Benjamin Rutabana, Janvier Rugema and François Rukeba were transferred to Mulindi military detention centre and Bertin Murera and Innocent Byabagamba to a military detention centre in Kibungo.

On 21 March 2000, in response to appeals sent as part of an Urgent Action on behalf of the five men,⁸ Amnesty International received a letter from the Chief Military Prosecutor at the *Auditorat militaire* (Military Prosecutor's Office) in Kigali. The letter states that Bertin Murera and Innocent Byabagamba are both accused of desertion, and that in conspiracy with Benjamin Rutabana, Janvier Rugema and François Rukeba, they "robbed a government vehicle and fled to neighbouring countries". The letter states that

⁸ See Amnesty International Urgent Action 49/00, 24 February 2000 (AI Index AFR 47/07/00) and updates of 1 and 3 March 2000 (AI Index AFR 47/08/00 and AFR 47/09/00).

the detainees have been formally charged and that investigations are almost complete.⁹ The letter also states that the detainees are safe and that are receiving visits from their families and lawyers.

The letter also states: "In the usual spirit of fighting crime across the borders, the Tanzanian Police on satisfaction that these were criminal suspects in their country handed them over to the Rwandese Police". The letter offers no explanation on why the Rwandese and Tanzanian authorities acted in violation of international refugee law. The letter offers no further information on the forcible return of three of the men from Burundi.

Amnesty International is currently seeking further information on the progress of their case-files and forthcoming trial. The organization has received reports that Bertin Murera and Innocent Byabagamba were made to sign a statement confessing that they had deserted the army and taken military equipment; they allegedly signed the statement under threat or in fear of torture.

Amnesty International regularly receives reports of torture and ill-treatment of detainees in military custody in Rwanda. The organization has also recorded several cases of deaths in military custody. As with other prisons and detention centres in Rwanda, the conditions in many military detention centres amount to cruel, inhuman or degrading treatment or punishment. Civilians are also often held in military custody. The situation of both civilian and military detainees in military custody is especially alarming as in most cases access is denied to their relatives, lawyers, doctors and human rights and humanitarian organizations, including the International Committee of the Red Cross. As a result, in most cases it is impossible to verify the identity or plight of those detained. The decision by the Rwandese authorities to allow the above five detainees to receive visits can be seen as exceptional and can probably be attributed in large part to international pressure on their cases.

Rape of women and girl refugees

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⁹Under Rwandese law, cases of civilians accused of committing an offence jointly with a member of the armed forces fall under the jurisdiction of the military courts.

Many women and girl refugees in Tanzania have been subjected to serious human rights abuses while in Tanzania. In many refugee camps there is a serious problem of sexual and domestic violence against female refugees. There are also frequent reports of refugee women and girls being attacked and raped by local villagers when they leave the camps to collect firewood. A number of measures were introduced by the Government of Tanzania in collaboration with the UNHCR and other organizations to try to address these issues. However, reports of rape of refugees continue, and the women and girls still seem to have little means of prevention and redress. ¹⁰

For example, in one case in May 1999, a group of Burundian refugee women and girls were attacked and at least 10, including at least one girl, were allegedly raped by villagers in Buhero district, near Mtendeli camp. The attack was apparently in reprisal for the killing of a local villager, some nine days previously, which was attributed to refugees. Eleven local villagers were subsequently arrested and the case was brought to trial before a court in Kasulu town. However, the judge dismissed the case on 15 December when the prosecutor was 75 minutes late, and acquitted all 11 defendants even though he could have deferred the case according to Tanzanian law. ¹¹ It is legally possible to appeal against the decision of the judge; however, it is not yet known whether an appeal has been lodged by the prosecution.

The above example calls into question the seriousness with which such cases are considered. Amnesty International is concerned at the failure of the Tanzanian authorities to take adequate action to bring to justice the individuals responsible for this attack on the refugee women. The organization appeals to the government to reopen the investigation and institute further measures which could better protect the rights of women refugees.

Background information

The principles of refugee protection have been severely undermined in the Great Lakes region and elsewhere in the last few years. The most dramatic examples are perhaps the mass *refoulement* of hundreds of thousands of Rwandese refugees from the Democratic Republic of Congo (DRC) and Tanzania and the forcible mass expulsion of thousands of Burundian refugees from the DRC in late 1996.

¹⁰UNHCR Guidelines on the Protection of Refugee Women, 1991 and EXCOM Conclusion No.73 Refugee Protection and Sexual Violence, set out recommendations for increased protection of women refugees.

¹¹ Section 222 of the Tanzanian Code of Criminal procedure provides that a judge has the option to dismiss a case if the prosecutor fails to arrive, or to defer it if it is deemed to be in the best interests of justice.

There are over 340,000 Burundian refugees and over 13,000 Rwandese refugees in Tanzania. Following the attempted coup d'état in Burundi and subsequent violence in 1993, there was a large influx of Burundian refugees into Tanzania. Since then, Burundian refugees have continued to arrive, fleeing Burundi's ongoing civil war and widespread human rights abuses, mostly attributed to the government armed forces.

The vast majority of Rwandese refugees who fled to Tanzania in 1994 were forcibly returned to Rwanda in December 1996. The few who remained behind largely integrated into local villages or hid in Burundian refugee camps. Since 1996, several thousand Rwandese refugees have arrived in Tanzania, fleeing further insecurity and human rights abuses in Rwanda.

The presence of large numbers of Burundian and Rwandese refugees in Tanzania has caused tensions with the local communities. These tensions have been aggravated by the actions of some government and local authorities who have encouraged anti-refugee sentiments among the population. In late 1997 and early 1998, the Tanzanian authorities forced hundreds of Burundian nationals living outside refugee camps to move into the refugee camps. These so-called "round-up" operations uprooted families who had, in many cases, been living in Tanzania for decades and who had integrated into local communities.

RECOMMENDED ACTION: WHAT YOU CAN DO

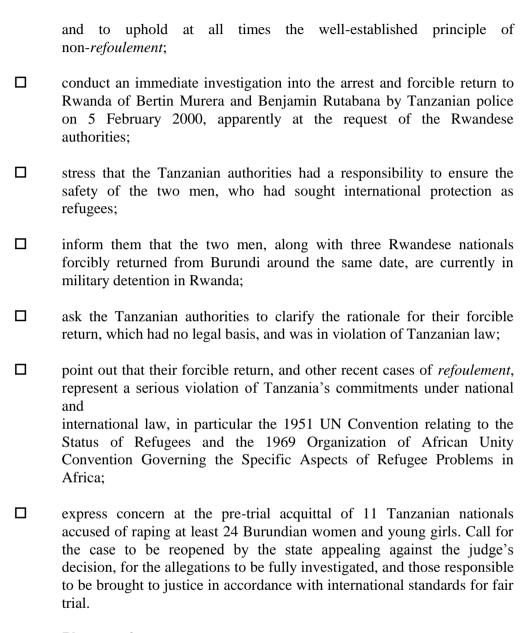
Amnesty International is calling on the Governments of Tanzania, Burundi and Rwanda to respect internationally-established standards for the protection of human rights, in particular to abide by the principle of non-*refoulement* at all times and to ensure that no refugee is forcibly returned to any country where they are at risk of human rights abuses. Amnesty International is also appealing to the Governments of Tanzania, Burundi and Rwanda to ensure that any detainee in their custody, or refugee under their protection, is safeguarded from human rights violations, including torture and ill-treatment.

Please send courteously-worded appeals to the Tanzanian, Burundian and Rwandese authorities raising the following points:

Appeals to the Tanzanian authorities (preferably in English)

appeal	to	them	to	stop	with	immedi	ate	effect	the	refoul	lement	of
Rwande	ese	and E	Burui	ndian	refuge	es from	the	Kagera	reg	ion of	Tanza	nia

¹²Tanzania currently hosts a total of over 400,000 refugees and asylum seekers, mostly from Burundi, the DRC, Rwanda and Somalia.



Please write to:

Minister of Home Affairs Mr Ali Ameir MOHAMED Minister of Home Affairs Ministry of Home Affairs PO Box 9223 Dar es Salaam, Tanzania

Telegrams: Minister Home Affairs, Dar es Salaam, Tanzania

Fax: +255 51 118334 *Salutation*: Dear Minister

Minister of Justice

Mr Bakari MWAPACHU Minister of Justice and Constitutional Affairs Ministry of Justice and Constitutional Affairs PO Box 9050

Dar es Salaam, Tanzania

Telegrams: Justice Minister, Dar es Salaam, Tanzania

Fax: +255 51 46670 *Salutation*: Dear Minister

Minister of Foreign Affairs

Mr Jakaya KIKWETE Minister of Foreign Affairs Ministry of Foreign Affairs PO Box 9000

Dar es Salaam, Tanzania

Telegrams: Minister Foreign Affairs, Dar es Salaam, Tanzania

Fax: +255 51 116600 Salutation: Dear Minister

Appeals to the Rwandese authorities (preferably in French or English)

Ц	express concern at the detention of Bertin Murera, Benjamin Rutabana, Janvier Rugema, François Rukeba and Innocent Byabagamba after they were forcibly returned to Rwanda from Tanzania and Burundi on 5 February 2000;
	ask for clarification of the legal basis for their detention and for information on the progress of their case-files, including the date of their trial;
	express concern that the forcible returns of Bertin Murera and Benjamin Rutabana from Tanzania appear to have taken place on the basis of an INTERPOL warrant, the status of which is not clear. Ask for the circumstances and the basis of their arrest to be publicly clarified;

ask for information on the circumstances and basis of the arrest of Janvier Rugema, François Rukeba and Innocent Byabagamba in Burundi and their forcible return to Rwanda.

Please write to:

President

Major General Paul KAGAME President

Présidence de la République BP 15, Kigali, Rwanda

Telegrams: President, Kigali, Rwanda

Fax: +250 84769 / 84390

Salutation: Dear President / Monsieur le Président

Chief Military Prosecutor

Lieutenant Colonel Andrew RWIGAMBA

Auditeur Militaire Général

Auditorat Militaire

BP 394, Kigali, Rwanda

Telegrams: Auditeur Militaire, Kigali, Rwanda

Fax: + 250 82071

E-mail: aumil@rwandatel1.rwanda1.com

Salutation: Dear Chief Military Prosecutor / Monsieur l'Auditeur Militaire

Général

President, National Human Rights Commission

Gasana NDOBA

President of the National Human Rights Commission

BP 269

Kigali, Rwanda Fax: +250 82702

Salutation: Dear Mr Ndoba / Monsieur

Appeals to the Burundian authorities (preferably in French)

express concern at the arrest and forcible return to Rwanda of three Rwandese nationals, Janvier Rugema, Innocent Byabagamba and

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François Rukeba, on 5 February 2000, and urge the Burundian authorities to conduct an immediate investigation into the circumstances of their arrest and return; ask for reports that the three may have been tortured while in detention at the Brigade spéciale de Recherche (BSR), Gendarmerie Special Investigation unit, to be investigated and, if substantiated, for those responsible to be brought to justice; ask what guarantees they had sought from the Rwandese authorities that the three men would not be subjected to human rights violations on their return: П point out that their forcible return represents a serious violation of Burundi's commitments under national and international law, in particular the 1951 UN Convention relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa; urge the authorities to uphold at all times the customary principle of non-refoulement of refugees. Please write to:

Minister of Defence

Colonel Cyrille NDAYIRUKIYE Ministre de la Défense

Ministère de la Défense

Bujumbura, Burundi

Fax: 257 22 39 59 / 22 71 65

Salutation: Monsieur le Ministre / Dear Minister

Minister for Reintegration and Resettlement of Displaced and Repatriated People

Dr Pascal NKURUNZIZA

Ministre à la Réinsertion et à la Réinstallation des Déplacés et des Rapatriés BP 2645, Bujumbura, Burundi

Fax: 257 21 82 01

Salutation: Monsieur le Ministre / Dear Minister

Minister for Human Rights

Monsieur Eugène NINDORERA

Ministre des Droits de la Personne Humaine, des Réformes institutionnelles et des Relations avec l'Assemblée nationale

Ministère des Droits de la Personne humaine, des Réformes institutionnelles et des Relations avec l'Assemblée nationale

BP 6802, Bujumbura, Burundi

Fax: 257 21 75 49

Salutation: Monsieur le Ministre / Dear Minister