TABLE OF CONTENTS

1.Introduction 1

2.Political background 4

3.Arbitrary arrests and detentions 6

4.Arrests of journalists accused of "insulting" the Head of State 9

5.Allegations of torture and other forms of ill-treatment 10

6.Political trials 12

7.Reports of extrajudicial executions and other violence 16

8.Human rights abuses by the FPR 21

9.The government's response to Amnesty International 22
9.1 Torture 22

10.Amnesty International's past concerns, and recommendations to the Rwandese government 24
10.1 Legislation restricting freedom of expression 24
10.2 Torture 26
10.3 Ending confinement in dark dungeons 27

11.Amnesty International's 1992 recommendations on protecting human rights 27
11.1 Ensuring fair trial 27
11.2 Protecting citizens from arbitrary arrest and detention 28
11.3 Preventing torture 29
11.4 Ending Extrajudicial Executions 32

APPENDIX

Map of Africa and Rwanda

£RWANDA
@Persecution of Tutsi minority and repression of government critics 1990-1992

1.Introduction

Rwanda experienced both a political and a human rights crisis during the months which followed a violent attack on northern Rwanda in October 1990 by the *Front patriotique rwandais* (FPR), Rwandese Patriotic Front, which is composed mainly of Uganda-based Rwandese exiles. The detention of more than 8,000 people, accompanied by the torture and killing of many, affected the country deeply, leaving the minority Tutsi ethnic group, to which most of the victims belonged, particularly traumatised. Amnesty International believes that many of the detainees were prisoners of conscience, held on account of their ethnic or national origins, political views or family connections with government opponents rather than because there was any evidence of their participation in the rebellion or support for armed government opponents. A year-and-a-half later, as the country approaches the 30th anniversary of its independence in July 1962, the trauma is not yet over and violent opposition to the government is continuing along the country's northern frontier with Uganda.

In the months following the October 1990 attack, Amnesty International received reports of torture or other forms of cruelty inflicted on prisoners by members of the security forces. Sometimes this was intended to extract confessions, sometimes to punish suspected supporters of the rebellion. Amnesty International representatives who went to Rwanda in June 1991 established that torture and extrajudicial executions had, in late 1990 and early 1991, been much more widespread than previously thought. By mid-1991 the organization was concerned that Rwandese officials did not appreciate the gravity of the abuses inflicted and did not seem prepared to remedy the situation. People were released and death sentences commuted but no serious inquiries had been conducted or other remedies adopted in the light of reported extrajudicial executions and torture by May 1992.

It is now more than a year-and-a-half since the rebellion but Amnesty International is still troubled by the Rwandese authorities' failure to take effective measures to protect human rights. An effective response requires independent and impartial investigations to be carried out into reports of human rights violations and those responsible to be brought to justice: this could prevent a recurrence of abuses committed by government officials and the security forces or with their complicity. The organization has asked the authorities to set up an independent and impartial commission of inquiry comprising neutral people of known competence to investigate reports of widespread extrajudicial execution, torture and other types of cruelty. Such a commission of inquiry should make its findings public and advise the government on how to prevent further abuse of the FPR's suspected supporters and of government opponents in general.

In 1991 there were important political reforms in the country, notably the amending of the constitution

in June so that there should be a multi-party political system instead of a one-party state. But despite the reforms human rights abuses, including imprisonment of prisoners of conscience, are still going on.

Before their release in February 1992 Amnesty International was still worried about 20 political prisoners convicted in January and February 1991 of offences to do with the rebellion. They had unfair trials by a special court, known as the State Security Court, and their cases were not reviewed. The court responsible for trying political cases has systematically failed to apply international fair trial standards. Most of these prisoners claimed in court that the security forces had tortured and beaten them during interrogation and forced them to confess their guilt. The impartiality of the court itself was in doubt as most of the judges were government and security officials sympathetic to the government. In one trial a judge publicly described a defence lawyer as a friend of the *Inkotanyi*[1] (as the FPR rebels are called in Rwanda). Amnesty International's appeals to the Rwandese authorities for an investigation of the torture claims and a review of these cases appeared to be ignored; the organization has welcomed their release.

Although virtually all the 8,000 detainees arrested in connection with the rebellion had been released by mid-February 1992, at least 24 captured insurgents are still in captivity. They are in effect prisoners of war. There were further arrests in 1991 and early 1992 of people who appeared to be prisoners of conscience. About a dozen of them were journalists whose published or unpublished articles had displeased the authorities. At least six journalists were arrested in December 1991 and others went into hiding for up to several weeks so as to avoid arrest. One journalist arrested on 31 December 1991 was charged on 17 January 1992 with insulting the head of state and remanded in Kigali central prison. He was tried on 3 February 1992 by the Kigali High Court and sentenced to two years' imprisonment on 12 February 1992.

Most of those arrested over the rebellion were members of the Tutsi ethnic group. Many seem to have been arrested because of their ethnic origin: the Rwandese authorities claim that the rebellion's objective was to re-establish the pre-1959 social order, with a Tutsi minority dominating the Hutu majority. Others arrested included Hutu government critics and nearly 300 Ugandan nationals, who appeared to have been apprehended simply because the rebels had launched their attack from Uganda and had strong links with Uganda, rather than because of any evidence that, as individuals, they had direct links with the insurgents.

Although there is still a state of siege and fighting is still going on in northern Rwanda, most political prisoners were free by the end of February 1992, which suggests that the situation is reverting to normal. The October 1990 crisis was not, however, the first time that human rights had been flouted in Rwanda, even though it was the first time since the early 1970s that the Tutsi had been targeted for abuse. In the mid-1970s, after a military coup in 1973, more than 50 prisoners (including most government ministers in the deposed Hutu-dominated civilian government) were extrajudicially executed or so severely ill-treated that they died in prison. In the 1980s Amnesty International had kept asking the authorities to put an end to torture and release all prisoners of conscience, who at one point in 1986 had included 300 members of minority religious groups. In the months preceding the rebellion, human rights were once again under attack, with a student who had formed an opposition political party (of which he was the only member), a journalist who had met Rwanda's deposed King in exile and four Jehovah's Witnesses all being given long prison sentences by the State Security Court.

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1 Inkotanyi was the name of an elite unit of the Rwandese king's army when Rwanda was a monarchy. It is translated as "relentless fighters".

Following numerous appeals by Amnesty International, a Rwandese Minister told the organization in August 1991 that the Procuracy had started investigating reports of ill-treatment, torture and extrajudicial execution. But Amnesty International is still worried by the scant progress such investigations appear to have made, and because it is very likely they are neither independent nor impartial and may well not constitute a serious effort to deal with the abuses which have been committed or to punish the guilty. For instance, Rwandese government officials and the news media have repeatedly accused the Tutsi (the main targets of abuse since October 1990) of supporting the FPR and "provoking Hutu violence". The government has not indicated what, if anything, is being done to prevent further such abuses.

Amnesty International has made numerous appeals (including a 25-page memorandum submitted in November 1991) to the Rwandese Government to put an end to extrajudicial executions and torture, and to end the arrest, imprisonment and trial of prisoners of conscience held because of ethnic identity or for non-violently exercising their fundamental rights. The organization has called for changes in trial procedure in order to ensure that in future all political prisoners receive prompt, fair trials, have access to legal counsel before and during their trials, and, if convicted, they have a full right of appeal. The organization is aware that, despite its numerous appeals, people are still given long prison sentences simply for exercising their rights, and that some are detained for a long time without their cases or appeals being heard by the courts. Although human rights in Rwanda seem to be better respected now than a year ago, Amnesty International has decided to publish information (based on the memorandum submitted to the government last November) about the violation of human rights in the country in order to show that the abuses committed at the end of 1990 were not an isolated event, and in order to persuade the government to put an end to all violations, release all prisoners of conscience and ensure all political prisoners receive fair, prompt trials.

2.Political background

Rwanda's population of about seven million people comprises three ethnic groups: the Hutu, Tutsi and Twa. The first constitute about 80 per cent of the population, the Tutsi about 15 per cent and the less politically or economically significant Twa less than five per cent. For several centuries Rwanda was ruled by a Tutsi monarchy. In 1899 it was colonized by Germany; then in 1916 it was occupied by Belgium during World War 1. From the mid-1920s until independence in July 1962 the kingdoms of Rwanda and Burundi (its southern neighbour) were placed under the control of Belgium by the League of Nations and its successor, the United Nations. The political and social influence of the monarchy and the Tutsi ethnic group in Rwanda was contested by the Hutu during the colonial period, and it diminished as Rwanda approached independence. Hutu politicians overthrew the monarchy in 1959. Violence ensued - resulting in the death of tens of thousands of Tutsi and the exile of several hundred thousand in the early 1960s. It is estimated that up to a million Tutsi refugees are in exile - most of them in neighbouring Burundi, Tanzania, Uganda and Zaïre. They have, especially in the past two decades, campaigned to be allowed to return to Rwanda. The government resisted pressure to let them, arguing that the country was already overpopulated and lacked the infrastructure to accommodate more people. Months before the October 1990 rebellion, negotiations were taking place between the Rwandese and Ugandan Governments, with the United Nations High Commissioner for Refugees (UNHCR) acting as mediator to enable the repatriation of Rwandese refugees in Uganda. These talks, involving the governments of Burundi, Rwanda, Tanzania, Uganda and Zaïre, resumed in early 1991 and the Rwandese Government has accepted in principle that all Rwandese exiles should be allowed to return. Nevertheless, none have as

yet done so.

In the recent past there was a regional and ethnic quota system for government jobs and places in institutions of higher learning. According to existing (although largely undeclared) government policy, the ethnic and regional share of jobs and places in educational institutions is supposed to reflect the demographic composition of each region and ethnic group. Rwandese citizens have to carry identity cards which indicate their ethnic origin. Government critics have, in the past, claimed that this identity card system was used mainly to discriminate against the Tutsi. President Juvénal Habyarimana announced in October 1990 that new identity cards which did not mention ethnic origin would soon be issued, but this had not happened by May 1992. Over the past decade people from southern Rwanda have often complained that those from President Habyarimana's northwestern region have received preferential treatment and been allowed greater political and economic influence. On the other hand the Hutu as a whole complain that the Tutsi have kept a disproportionate share of economic wealth and influence. Before the rebellion the government had tried to prevent the public openly discussing matters which had to do with competition and conflict between ethnic groups or regions.

Since March 1991 there have been some significant improvements. Not only have thousands of untried detainees been released but a new Minister of Justice appointed in February 1991 took steps to curb some of the worst prison service abuses. In June 1991 the Constitution was amended to put an end to the one-party state and introduce a multi-party political system. Previously, every Rwandese citizen was, under the 1978 Constitution, obliged to be a paid-up member of the ruling *Mouvement révolutionnaire national pour le développement* (MRND), Revolutionary National Movement for Development. The MRND changed its name in June 1991 to *Mouvement républicain national pour la démocratie et le développement*, Republican National Movement for Democracy and Development, but kept the same initials. By February 1992 about 10 opposition political parties had been formed, in the run-up to multi-party elections due this year. In October 1991 the President appointed Minister of Justice Sylvestre Nsanzimana, a former Deputy Secretary General of the Organization of African Unity (OAU), Prime Minister of a new transitional government to comprise representatives of all political parties in the run-up to general elections. Most of the parties declined to participate in the transitional government unless it were led by a Prime Minister belonging to an opposition party. President Habyarimana refused to accept this opposition pre-condition, and in December 1991 Prime Minister Nsanzimana formed a government with only one opposition party representative in the 17-member cabinet. In December 1991 and January 1992 opposition parties organized demonstrations to protest about the domination of the new government by the ruling MRND and demand a national conference to decide Rwanda's future. In March 1992 the government and major opposition parties reached an agreement to form a transitional government. In early April President Habyarimana appointed Dismas Nsengiyaremye, a member of the opposition *Mouvement démocratique républicain* (MDR), Republican Democratic Movement, Prime Minister to head the transitional government.

3.Arbitrary arrests and detentions

Rwandese law permits a number of detention procedures supposed to prevent, or at any rate limit, arbitrary detention. In practice they are ignored. In 1986 Rwandese officials told Amnesty International that the names of suspects in National Gendarmerie custody were recorded in a register which was

inspected daily by a Procuracy official who was therefore familiar with each new case. The National Gendarmerie said that only the Procuracy was entitled, by issuing provisional arrest warrants, to order the detention of suspects beyond 48 hours. Furthermore, the Procuracy was, in accordance with Article 38 of the Code of Penal Procedure, required to refer detainees to magistrates within five days of issuing provisional arrest warrants. Detainees could then be remanded in custody by court judges, initially for 15 days, then for successive 30-day periods. Amnesty International was told that in ordinary criminal cases pre-trial detention seldom exceeded 90 days.

In practice, arrest warrants and the requisite detention orders are often not obtained or else are issued and filled in retrospectively so as to provide a semblance of legality in cases of unlawful detention. Because basic remand procedures are not observed - that is, the issuing of detention orders which prisoners may challenge in court, detainees cannot invoke the procedure which exists in law to allow them to challenge a detention order; so they get no chance to appeal to a court against their detention. This means that detentions ordered by the security forces without the suspects being referred to the Procuracy (which is known in French as garde à vue) and detentions on remand ordered by the Procuracy may both be prolonged virtually indefinitely without any remedial action being possible. For example, in one case a student, **Innocent Ndayambaje**, arrested in 1986 and accused of an offence against the security of the state, was not tried until 1990. He was then convicted of forming a political party (of which he was said by the prosecution to be the only member) and sentenced to five years' imprisonment. He was not assisted by a lawyer and the trial court did not criticize the length of his pre-trial detention. He was released in April 1991, after four-and-a-half years in prison, as a result of a general order by the head of state reducing the length of prison sentences.

The failure of the security forces and the Procuracy to follow basic legal procedure is rarely criticized or remarked upon by Rwanda's judiciary: the courts do not take action when people clearly have been kept unlawfully in custody for long periods. This lack of reaction may be mainly due to a shortage of defence lawyers and their virtual absence at political trials, but it is also partly due to the apparent lack of any sanctions against unlawful detention. For instance, there is no mechanism for automatic release if the permitted limits on detention by the security services and on pre-trial detention on remand are not respected. Nor is there any legal provision whatever which nullifies the validity of statements or evidence which are collected illegally or while a detainee is held unlawfully. Such a safeguard against unlawful detention exists, however, in other countries.

During the October 1990 crisis, the authorities clearly decided that following normal detention procedures would hinder them processing the thousands of detainee cases. An ad hoc Vetting Commission, known in Rwanda as the *Commission de triage*, composed of members of the security forces and the Procuracy, was therefore set up, apparently without any proper legal basis. In practice, its role was similar to that of a review committee set up under an administrative detention system. For, although Rwandese law does not allow long-term administrative detention (that is imprisonment without charge or trial for more than just a few days, authorized by the security forces or government officials rather than by a magistrate or judge), the mass detentions that occurred did in fact amount to a form of administrative detention, only a few dozen of the more than 8,000 detainees ever being charged and brought to trial. The Vetting Commission ordered the release of many detainees, and thus put an end to many cases of arbitrary or unnecessary imprisonment. The grounds for the commission's decisions were not made public. Apparently owing to opposition to the releases on the part of the public and certain government and security officials, releases in Kigali were halted in November 1990. Apart from getting

vetted by the commission (sometimes in person but usually not) detainees had no other form of safeguard or entitlement to appeal that might have ended their arbitrary detention. Once the activities of the Vetting Commission were curbed there was no safeguard at all against arbitrary detention until March 1991, when the authorities again intervened to order the release of all detainees against whom there was insufficient evidence to bring charges.

Some people were redetained soon after their release in early 1991. One such person was then held again until he was freed in February 1992 without ever being charged or brought to trial. **Jean-Baptiste Gacukiro**, a 40-year old Tutsi trader from the northwestern town of Gisenyi, was rearrested on 3 April 1991 by the security forces and held at a military barracks in Kigali. He had been arrested previously in February 1991, apparently on suspicion of links with the FPR. He was released at the end of March 1991 without being charged or told why he had been arrested and rearrested a few days later. Amnesty International learned that he was detained on the basis of a denunciation by a business rival who had claimed, apparently without any evidence, that he was an FPR supporter.

In response to inquiries in August 1991 by Amnesty International, the Rwandese authorities denied that Jean-Baptiste Gacukiro had been arrested and claimed that he had left Gisenyi for Kigali of his own will and that there was no trace of him there. Towards the end of 1991 he was apparently transferred to prison from military barracks and the authorities told Amnesty International that he was in Kigali central prison but did not say whether he had been charged or would be brought to trial. He was evidently kept in unlawful, secret custody by the military for about nine months.

Between 20 and 22 October 1991 at least 16 Tutsi from Kanzenze district (in Bugesera sub-prefecture in Kigali prefecture) were arrested by order of local officials. Eight of them, including **Jean-Bosco Gakwere**, were reported to have "disappeared" amid reports that they might have been extrajudicially executed. In December 1991 a government minister sent Amnesty International an account of the arrests compiled by officials at the Rwandese Ministry of Interior and Communal Development. The report claimed that most of those said to have "disappeared" had been released and returned to their homes outside the Kigali prefecture. But it maintained that **Jean-Bosco Gakwere,** and someone called **Karengera,** had fled from Bugesera to join the ranks of the FPR. In May 1992 Amnesty International was still trying to ascertain the truth of government claims that the "disappeared" had been freed and not killed. It was clear from the Gacukiro case that the government's own channels for obtaining information about prisoners did not always result in accurate information.

The eight who, according to official reports, were in detention at Nyamata near Kanzenze district headquarters, included **Jean-Marie Vianney Mutokambali** and **Alexis Bizimana**. They were said to have made voluntary confessions that they had intended to join the FPR. But independent reports indicate that they had been severely beaten at the time of their arrest, which suggests that their "confessions" were made under duress. The authorities told Amnesty International that two of the detainees, **Gisagara** and **Mushimire**, had been arrested because they had publicly defamed the head of state. These two appeared to be prisoners of conscience, jailed because they had exercised their right to freedom of speech. In May 1992 it seemed that the eight were still in detention, although it was unclear whether they were to be brought to trial and the exact nature of the charges against them had not been made public.

The arrests in Kanzenze district seem to suggest that, in the absence of other more substantial evidence, the Tutsi in Rwanda are still liable to be arrested for essentially arbitrary reasons and to be arbitrarily

detained or to face other abuses after being denounced by personal enemies, by the Hutu who dislike Tutsi or by officials biased against the Tutsi. At least three Tutsi in Kanzenze district were, for instance, forced by a local official in October 1991 to pay fines simply because they were seen with a group of people who did not live in the area whom the official suspected, without any evidence, of wanting to join the FPR.

4.Arrests of journalists accused of "insulting" the Head of State

At least six journalists, whose articles seem to have displeased the authorities, were arrested in December 1991, and others went into hiding for up to several weeks in order to avoid arrest. In each case they were accused of insulting President Habyarimana. Those detained for several days included **Adrien Rangira** and **Obed Bazimaziki**, journalists of *Kanguka* newspaper; the former had been imprisoned for his writings earlier in the year as well. These arrests seemed to herald an all out concerted campaign by the authorities to intimidate journalists and stop them writing articles which the Rwandese authorities considered critical of government officials or policy.

Another journalist, **Jean-Pierre Mugabe**, editor-in-chief of *Le tribun du peuple* newspaper, is now a prisoner of conscience. He was first arrested on 31 December 1991 after attending a news conference addressed by opposition party leaders in Kigali. Earlier in the month he had spent several days in hiding because he was wanted by the security forces on account of his cartoons and articles which the authorities said insulted President Habyarimana. His paper too seems to have displeased the authorities by reporting in December 1991 that people had been killed in Kanzenze district in Kigali prefecture. He was released on 1 January 1992 but rearrested next day and detained in Kigali central prison. He appeared before the Kigali High Court on 17 January 1992 charged with insulting the head of state and was tried on 3 February 1992. The court sentenced him on 12 February 1992 to four years' imprisonment. He appealed against his sentence and conviction and on 3 April he was granted provisional release. His appeal was due to be heard on 23 May 1992 by the Kigali Court of Appeal. Two other independent newspaper journalists were detained in February 1992 because of articles published by their newspapers. They are **André Kameya**, Editor-in-Chief of *Rwanda Rushya*, and **Théoneste Muberantwali**, Editor-in-Chief for *Nyabarongo*. They too were reportedly granted provisional release pending their trial at an unspecified date.

The arrests of journalists appeared to be related to a communiqué criticizing Rwandese newspapers and opposition political parties that was issued by the Rwandese Armed Forces Military Operations Directorate, *Direction des opérations militaires des Forces armées rwandaises*. The communiqué was broadcast on 1 December 1991 by the Rwandese state-run national radio. It accused newspapers and political parties (without naming any) of being on the FPR pay-roll and of promoting the rebel group's cause by encouraging violent crime or regional and ethnic conflict in order to provoke a civil war. It claimed that civil war would enable the FPR to assume power after failing to overthrow the government. Five days later three opposition political parties issued a statement denouncing the communiqué as an attempt by opponents of political reform to clamp down on freedom of speech and association. It called on the government to dissociate itself from the communiqué and to prosecute the people responsible for it. The government is not known to have reacted to this opposition statement.

5.Allegations of torture and other forms of ill-treatment

Amnesty International has received numerous accounts of prisoners being tortured in the months following the October 1990 rebellion and mass arrests. Allegations of torture by former prisoners, which tally with information from other sources, are sometimes backed by medical evidence and appear credible, leading Amnesty International to conclude that when mass arrests began in October 1990, torture emerged as a major human rights problem. As well as the considerable brutality meted out to prisoners arrested in mass round-ups in October 1990, which caused enormous suffering and sometimes death, torture too was inflicted by Central Intelligence Service (*Service central de renseignements*, SCR) agents, the security police and the National Gendarmerie during interrogation. The purpose was to extract information and confessions of guilt and to get detainees to sign statements, often without first reading them. Torture was not only reported at the peak of the crisis in late 1990 but also again in 1991 and 1992. Although the number of political arrests has subsequently declined, nothing appears to have been done to put an end to torture, which the authorities deny takes place.

Various torture methods have been reported. In some cases victims have been subjected to beatings, with such varied instruments as electric flex and hoe handles; on some occasions they have been given electric shocks. One victim has reported being made to drink urine and eat vomit while being interrogated in early 1991. In late 1990 a number of prisoners were tortured at Ruhengeri prison in northwest Rwanda. However, most cases of ill-treatment reported to Amnesty International occurred at detention centres in Kigali, such as a branch of the Gendarmerie in the centre of Kigali known as the "*Fichier central*" (Central Registry), also known as the "*Service de criminologie*", (Criminology Service), Gikondo and Muhima Gendarmerie detention centres and the armed forces' headquarters in Kigali.

One prisoner, **Charles Mukuralinda**, was initially kept in Gikondo National Gendarmerie detention centre in Kigali after his arrest in early October 1990. He was later moved to the main prison in the northwestern town of Ruhengeri. He and a number of other detainees were kept in the prison's women's wing known as "*quartier des femmes*", which was said to be overcrowded. On 28 October 1990 he was interrogated in the prison for about six hours by security police and a member of the National Gendarmerie. During the interrogation the security police reportedly whipped and kicked him and electric wires were tied to his right hand. At intervals during the interrogation the names of suspected rebel supporters were read out and he was asked whether he knew any of them.

After the interrogation he was held for some days in one of the pitch-dark cells, known in French as "*cachot noirs*" (black dungeons), where numerous political prisoners perished in the mid-1970s. He was not charged with any offence. He was interrogated again for one day by the same security police on 16 November 1990. He was beaten and kicked and forced to sign statements. He was not acquainted with the charge being brought against him of endangering the security of the state until he was summoned to court in late December 1990 and had his first contact with a lawyer.

Another prisoner arrested at the same time, **Donatien Rugema**, was kept in similar conditions. On 16 November 1990 he was interrogated for more than four hours by the security police. His interrogators accused him of collaborating with the rebels and beat him with an electric cable when he denied the accusation. Afterwards they dictated a statement to him in which he admitted to having collaborated with the rebels. After this interrogation he too was hand-cuffed and kept for some days in a dark cell.

On 6 December 1990 he was moved to Kigali central prison to await trial. He was interrogated again on 8 December 1990 by members of the Procuracy in Kigali, and on this occasion withdrew the statement

he had made on 16 November 1990. He was not allowed to read his case dossier before his trial began on 28 December. The trial ended on 1 February 1991 when he, Charles Mukuralinda, and five co-defendants were sentenced to death for treason. Their sentences were commuted in April 1991 to life imprisonment. They were released in February 1992, following a general amnesty for political prisoners passed in December 1991 by the Rwandese National Assembly known as the *Conseil national de développement* (CND), National Development Council.

There were other reports of detainees being ill-treated, most of them journalists, following their arrest towards the end of 1991. For instance, at least seven people were arrested in October 1991 by local officials in Nyamata, Kanzenze district in Kigali prefecture. They were severely beaten and at the end of the year were reportedly still badly affected by this cruel treatment. Like the 16 Tutsi mentioned on page 8, they too were arrested and ill-treated on suspicion (without evidence) that they supported the FPR rebels. At least four journalists were beaten in December 1991 at the time of their arrest and while in custody. **Boniface Ntawuyirushintege** of *Umurangi* newspaper, for instance, was apparently severely beaten in Kigali security police headquarters. His arms and legs were evidently injured. He was released on 7 December 1991.

The torture and ill-treatment of prisoners seems to have been facilitated by the total lack of safeguards against arbitrary detention - particularly the denial of access to families, lawyers and independent doctors; by the virtual absence of any judicial supervision of detention cases for weeks or months after arrest; and by the failure of the State Security Court, when cases came to trial, to order thorough and independent investigations of defendants' torture allegations.

Other reports of ill-treatment have concerned prisoners in military custody. The armed forces are said to have tied prisoners up in a painful, sometimes injurious way: their arms would be tied tightly together above the elbows and behind the back. Sometimes victims' legs were pulled up and tied to the wrists. Usually the binding of cords or ropes around victims' arms was so tight as to cause injury, occasionally even stopping blood circulating to the lower part of the arm and damaging the nerves, causing paralysis. This way of restraining prisoners (which appears to be generally accepted in the armed forces and indeed to have been taught to soldiers) amounts to cruelty - sometimes even torture. And it is contrary to both human rights standards and Common Article 3 of the Geneva Conventions, which is to do with non-international conflict and prescribes the minimum standard to be respected by the armed forces, it prohibits all forms of cruelty and torture. This binding of prisoners should be forbidden and replaced by other more humane forms of restraint.

In a letter to Amnesty International in February 1992 the Minister of Foreign Affairs denied that torture occurred in Rwanda in any significant way, despite detailed information submitted to the government by Amnesty International and others. He indicated that there had been no investigations into torture allegations and said that only Amnesty International had highlighted torture as a human rights problem in Rwanda. Amnesty International believes that as long as there is no independent and impartial inquiry into reports of torture and other human rights violations initiated by the authorities themselves, it will continue to be difficult for the Rwandese authorities to come to terms with the abuses and take steps to bring them to an end.

6.Political trials

Under the terms of Article 147 of Rwanda's *Code of Penal Procedure*, the State Security Court may try people accused of endangering the internal and external security of the state both when a state of siege is in force and when the country is at peace. The first trials of those arrested in connection with the October 1990 attacks took place before this court in early January 1991. None of those tried had actually been involved in fighting.

Nearly 30 people accused of offences pertaining to their rights to freedom of expression and association had already been tried between March and October 1990. More than 20 of them, including journalists and members of the Jehovah's Witnesses religious denomination were tried between March and August 1990 by the State Security Court in Kigali. They were sentenced to from five to 10 years' imprisonment.

Vincent Rwabukwisi, editor of *Kanguka*, is one of the journalists tried by the State Security Court in 1990. He was arrested in July 1990 and charged with endangering the security of the state, apparently because he had visited the Kenyan capital Nairobi, and there he met Rwandese exiles, including Kigeri Ndahindurwa (former king of Rwanda). Twice the State Security Court failed to convict him for lack of evidence, but in October 1990, after the rebellion, it sent him to prison for 15 years, apparently without hearing any fresh evidence. He appeared to be a prisoner of conscience, jailed simply because he had performed his journalistic duties. He was released in early May 1991 after the Cassation Court had overturned his conviction and ordered his release pending a fresh trial by the State Security Court. **Vincent Rwabukwisi** was arrested again at the end of May 1991, together with four other journalists, because of further articles which apparently displeased the authorities. Only he was charged with endangering the security of the State, apparently because during his brief period of freedom he had written an article which the authorities considered supported the rebels. Two other *Kanguka* journalists arrested in May 1991 were released in August 1991, but it was not clear whether the charges against them had been dropped. **Vincent Rwabukwisi** was set free in September 1991 without having been brought to trial again but the charges against him were evidently not dropped: but he was restricted to his home district of Kigoma in Gitarama prefecture. Amnesty International later heard that he was in hiding until early 1992 because he was being sought by the security forces for disobeying the restriction order by living in Kigali. His trial was scheduled for early 1992 but seems to have been abandoned as a result of the general amnesty for political prisoners in February 1992.

Two journalists accused of defaming government officials were brought to trial in July 1991 before the Kigali High Court. One of them, **Sixbert Musangamfura**, who was never arrested, was convicted and sentenced to a year's imprisonment. He promptly appealed against conviction so was not sent to prison. His appeal was heard on 6 December 1991 by the Kigali Court of Appeal which confirmed the conviction and one-year prison sentence but suspended the sentence for three years. **François-Xavier Hangimana**, arrested in May 1991, was sentenced in August 1991 to two years' imprisonment after the Kigali High Court found him guilty of defaming two ministers and another official. He was released in September 1991 about a year and a half before the end of his sentence, after he had lodged an appeal against conviction. The appeal was expected to be heard in early 1992. He had been detained previously in December 1989 because of an article he had written for *Kanguka* which was considered critical of government policy. The Kigali High Court, which tried him in March 1990, found him guilty of having written an article which was intended to provoke conflict between the inhabitants of different parts of Rwanda. He was sentenced to two months' imprisonment but was set free as he had already spent three months in prison. He was clearly a prisoner of conscience during those three months. The two journalists seem to have benefited from the general amnesty for political prisoners.

The State Security Court which most recently heard cases in 1990 and early January 1991 was composed of five judges. Two of them were serving soldiers while a third was a president's office official. The court's composition obviously cast doubt on its degree of independence and impartiality, and this remained so even after the appointment of new judges in January 1991, for they too included senior civil servants and serving military officers.

An Amnesty International representative who attended the first trial of 13 alleged rebel sympathizers on 3 January 1991 concluded that the proceedings had been summary and unfair. The trial took place in an atmosphere of vengeance with recordings of songs celebrating the victory of government soldiers over rebels being played in court before and after the trial. The hearing lasted less than five hours. Although 12 of the accused, including a 16-year-old boy, faced capital charges, none had legal representation. Most of the accused told the court that they had been beaten or persuaded by threats to admit guilt while they were in pre-trial custody, but the court did not investigate these claims or rule the confessions inadmissible. The State Security Court has repeatedly in the past failed to investigate torture allegations. No witnesses, only defendants, appeared before it in January 1991. The charges against the principal defendant, **Jean-Chrysostome Karuranga**, were not supported by actual evidence. Significantly, even though the prosecution claimed he had hidden a firearm, the latter had not been found where it was said to have been buried. **Jean-Chrysostome Karuranga** was sentenced to death on 7 January 1991 and nine other defendants were sentenced to between 15 and 20 years' imprisonment. One was acquitted while two others received shorter sentences.

The 12 defendants in a second trial which ended on 1 February 1991, who included **Charles Mukuralinda** and **Donatien Rugema**, did have legal representation but they were not allowed to call witnesses, nor even to cross-examine other defendants who had incriminated both themselves and some of their co-defendants in statements they had made while in custody. In particular, those defendants who said that they had been tortured or coerced into signing incriminating statements which the prosecution was citing as evidence were prevented from calling on a doctor to confirm their allegations. The court ruled that doctors' testimony was unnecessary because the prisoners had been visited by diplomats from foreign embassies in Kigali who had evidently not noticed any scars. In fact, the visit by diplomats to Ruhengeri prison, where the defendants were held, had occurred in October 1990, some days or even weeks before the defendants were alleged to have been tortured.

During this trial, the State Security Court judges failed to restore order when members of the public applauded the prosecution and jeered the defence. A judge criticized a defence lawyer, saying that the public thought he was a friend of the *Inkotanyi* rebels: He and another lawyer withdrew from the case after receiving anonymous death threats. Seven of the 12 defendants were sentenced to death and one to 10 years' imprisonment. Three were acquitted and one remanded in custody to allow further investigation of his case. The presence of defence counsel at this trial, even though two lawyers dropped out and another was prevented from speaking on behalf of his clients, was in contrast to many State Security Court trials in the 1980s at which no defence lawyers at all were present. In Rwanda even capital defendants are usually tried without legal representation.

Defendants sentenced by the State Security Court have no general right of appeal to a higher court, although they may appeal on points of law to the Cassation Court within 10 days of conviction. This procedure enables them to challenge conviction on the grounds that legal procedures had not been

correctly followed, but it does not enable them to have their sentences or the evidence against them reviewed. In the past this right of appeal was seldom exercised, but those convicted on 1 February 1991 did lodge appeals with the Cassation Court. Those convicted on 7 January apparently did not lodge appeals because they had no legal counsel. People convicted on 1 February were allowed longer than usual - up to 30 days - in which to appeal, and all of them appear to have exercised this right. However, all the appeals were turned down. The eight death sentences imposed at the two trials were commuted by the President in April 1991. The 20 prisoners were finally freed in February 1992 as a result of the general amnesty for political prisoners other than those reported to have been captured while actually fighting on the side of the FPR.

In virtually every case reported to Amnesty International in the 1980s, those convicted by the State Security Court did not receive a copy of their judgment within 10 days of conviction and had not been represented by legal counsel, who might have advised them on points of law. Consequently, the recourse to appeal provided by law had effectively been unavailable in practice. Moreover, certain defendants had apparently felt that to invoke their right of appeal would reduce their chances of obtaining executive clemency. Yet when prisoners have appealed to the President for release on humanitarian grounds, this too has sometimes been interpreted by the authorities as an admission of guilt. A plea for release by one defendant towards the end of one of the January 1991 trials was interpreted by the State Security Court as an admission of guilt. This is yet another indication that those facing political charges in Rwanda experience a bias against them in the legal system at virtually every turn.

Legal procedures were also not followed in the case of soldiers arrested in connection with the rebel attack. For instance, Lieutenant-Colonel **Charles Uwihoreye**, the officer commanding Ruhengeri at the time of the attack on the town on 23 January 1991, was arrested soon afterwards but his arrest warrant was not formally issued until 21 February. He was not questioned by judicial officials until 4 May 1991 and his detention order, about which he was not told, was issued on 13 May. At the end of July 1991 a court martial, known as the *Conseil de guerre*, Court Martial, found him guilty of insubordination and sentenced him to eight years' imprisonment.

Another army officer, **François-Xavier Munyagatanga**, was arrested on 21 October 1990 but was apparently not questioned until the following January. His detention order was issued at the end of April 1991, which meant he was kept in unlawful detention for almost six months. When he appealed on 6 May 1991 against the detention order he was told the appeal could not be heard because there were no military judges available to hear the case. (The Military Court hears appeals against decisions by the court martial; its civilian presiding judge sits with military magistrates.) In July 1991 a court martial convicted him on the charge of abandoning positions to the enemy (the FPR rebels) in October 1990 and sentenced him to seven years' imprisonment.

Further trials by court martial apparently ended in August 1991 without any indication as to when or whether they would be resumed. It is unclear whether all the soldiers in prison were released in early 1992 following the general amnesty. Among those tried by the court was Major **François Sabakunzi**. He appeared in court on 22 July 1991 having been arrested in October 1990. As in the cases of the two above-mentioned army officers, proper legal procedures were not followed in his. The trials were held virtually *in camera*, in a courtroom attached to Kigali prison to which members of the general public were not allowed access. This meant that few details about their trials were available. He was charged with disobeying orders and endangering the security of the state. The court martial reconvened in August 1991

and acquitted him on the lesser charges of disobeying orders. It said it was not entitled to try him for endangering the security of the state and referred the case to the State Security Court. He was promptly redetained, but reportedly released in September 1991 when all the charges against him were finally dropped.

7.Reports of extrajudicial executions and other violence

Amnesty International's representatives in Rwanda in June 1991 were told about many different cases of extrajudicial execution. Some had involved the killing of captured combatants while they were in army custody, in both late 1990 and early 1991. Others had been cases in which civilian prisoners who had "disappeared" in custody in October 1990 were said to have actually been killed, some in the north and others in Kigali. Before the representatives' visit to Rwanda, Amnesty International had also drawn the attention of the Rwandese authorities to its concern about a number of killings in Kigali in October 1990 and mass killings in the northwest, in the Ruhengeri area, in late January and early February 1991.

Soon after the October 1990 rebellion began, people fleeing from the combat zone reported that as many as 300 civilians had been killed by government troops. A government minister claimed in October 1990 that those killed by troops were in fact rebels in civilian clothes. Information obtained by Amnesty International from Rwandese sources suggested that dozens of Tutsi living on cattle ranches in northeastern Rwanda had been deliberately killed by government troops. At least 20 people, including women and children, were reportedly found dead in one group of homesteads. The sources claimed that the ammunition used by Rwandese government troops was different from that used by FPR rebels and that bullet shells found near the bodies of dead civilians, including women and children, were similar or identical to those used by government troops. Some government soldiers reportedly claimed that local women had been helping the rebels to transport weapons.

Also in early October 1990, civilians initially incarcerated in Byumba prison, on the road between Kigali and the Ugandan border, are reported to have "disappeared" and are feared to have been killed after transfer from the prison, ostensibly to Kigali. They included two men named **Gasumati** and **Sendabye**. The reasons for the apparent killing of prisoners in the Byumba area are not known, but the victims apparently belonged to the Tutsi ethnic group. Those believed killed are said to be buried in a mass grave near Byumba military barracks.

Michel Karambizi, a Hutu businessman, his wife and 10-year old child were executed extrajudicially on 4 October 1990 at their home near the capital, Kigali, by members of the Rwandese security forces. Michel Karambizi's brother, Silas Majyambere, was evidently suspected of supporting the FPR rebels, although he may not have been. Michel Karambizi is one of the few prominent Hutu known by Amnesty International to have been targeted for extrajudicial execution by the Rwandese security forces.

Government officials subsequently claimed that **Michel Karambizi** had been involved in a shoot-out with government troops who were trying to arrest him and that the entire family had been killed when the soldiers returned fire. According to reports received by Amnesty International neither **Michel Karambizi** nor anyone else at his home seem to have been armed; nor do the lives of the security force members appear to have been threatened by him or his family.

Amnesty International representatives visiting Rwanda in June 1991 went to the home of **Michel**

Karambizi in order to investigate the authorities' claim that the house served as a rebel mortar post used for attacking an army post and that he had fired at the government troops with an UZO machine-gun. They found bullet holes caused by shots fired from outside, but not inside the house. According to Kigali sources, **Michel Karambizi**, his wife and child had been executed beneath an avocado tree in front of the house. Amnesty International is concerned at reports that **Michel Karambizi** and his family may have been killed deliberately in retaliation for his brother's suspected support for the rebels rather than because he himself posed any serious threat to the security forces. Silas Majyambere fled from Rwanda at the time of the attack and formed a political party in exile.

Following a rebel attack on the northwestern town of Ruhengeri on 23 January 1991, the security forces and local vigilante groups started to arrest, and in many cases to kill people suspected of collaborating with the rebels. In early 1991 Amnesty International learned of the arbitrary killing of 14 residents of Kibuye (in the Bizizi sector of Kanama district in northwestern Rwanda's Gisenyi prefecture). The 14 victims were members of four families whose heads appear to be called **Rukingamubiri**, **Gahutu**, **Ndatira** and **Munyampame**. Among those killed was a person called **Phocas Nkinzingabo**, a technician employed by a company known as BCEOM in Gisenyi.

The 14 were reportedly executed on 4 February 1991 by soldiers at Gisenyi town military barracks. The executions evidently amounted to the cold blooded murder of unarmed civilians, who may in fact have had nothing whatever to do with the armed opposition, but who were targeted because they belonged to the Tutsi ethnic group (to which many of the armed rebels who attacked Ruhengeri belonged), possibly to the Tutsi clan of the Bagogwe. In April 1991 Amnesty International received a list of more than a hundred people killed in early 1991 in Ruhengeri and Gisenyi prefecture by Hutu civilians and the security forces. Indeed, it may be that between 500 and 1,000 Tutsi were killed between 23 January 1991 and mid-February 1991 -- most of them members of the Bagogwe clan from Kinigi district. As far as is known, no official investigations were conducted into all this in the months following the killings in order to ascertain whether in fact these executions did take place and to identify those responsible and to bring them to justice. Instead, local government and security officials appear to have taken advantage of the state of siege (which limits inter-regional movement without permit) which hindered the transmission of information about the killings to other parts of the country. In June 1991 a government minister, in conversation with Amnesty International representatives, ridiculed the suggestion that hundreds or even dozens of people had been executed. He attributed some of the killings to rebel forces but thought that only three or four Bagogwe had died. It is clear that the total was much higher and that the Bagogwe clan, in particular, was targeted for elimination.

After they were killed the 14 were reportedly buried in a mass grave in or near Gisenyi military barracks. The authorities have not acknowledged the killings. Amnesty International wrote to the Minister of Justice about them at the end of May 1991. Last August he replied that the Procuracy had started looking into the matter but gave no indication as to how far the investigation had progressed. By May 1992 it was still unclear whether the investigations had in fact taken place and whether the results would be made public and the guilty punished. In February 1992 the Rwandese Minister of Justice, responding to the memorandum sent to the Rwandese authorities in November 1991, informed Amnesty International that because of the fighting in northern Rwanda the Procuracy had found it difficult to finalise the investigations. However, he did not elaborate on what had so far been uncovered by preliminary investigations or how the fighting could have affected investigations into killings reported in areas where fighting between the FPR and government troops has so far not taken place.

Ever since early October 1990 the killing of both captured combatants and civilian prisoners has been reported. Government officials have acknowledged some killings, but have maintained that members of the general public were responsible, not members of the security forces. Although often Amnesty International has been unable to obtain independent confirmation of reported security force killings the accounts of such killings have come from such a wide range of sources and have tallied in so many ways that the organization has concluded that they must have occurred. Official denials of extrajudicial executions have not, moreover, been backed by findings of formal investigations or by alternative explanations of just how and why the killings occurred. For instance it has been reported that the security forces in Gisenyi and Ruhengeri prefecture summarily executed recaptured prisoners released by the FPR from Ruhengeri prison on 23 January 1991. Among former prisoners reportedly killed shortly after their release at the end of February 1991 were two individuals who were arrested over the October 1990 rebellion and set free on 27 February 1991: **Jean Munyakazi**, a driver at Kanombe military barracks near Kigali, and **Apolinnaire Niyonzima**, an agronomist, were apparently rearrested by members of the National Gendarmerie at Kanombe barracks soon after their release. It has been alleged that the two were later executed extrajudicially by their captors and buried secretly at Kanombe military barracks firing range. As far as is known there has been no official investigation into this matter, although Amnesty International made this information available to the Rwandese authorities in early 1991.

Over the past six months there have been several more incidents of killings of Tutsi, which appear to have involved members of the security forces directly or indirectly. The authorities' response does not indicate that they are willing to take final action to prevent the killings. In November 1991 Hutu groups attacked Tutsi residents in Giti district in the northern prefecture of Byumba. An internal report on the violence issued by a commission set up by, and composed of officials of the Rwandese Ministry of Interior and Communal Development (which was sent to Amnesty International by a government minister) acknowledged that one Tutsi woman was killed and property belonging to the Tutsi damaged. Unofficial sources suggest that many more were killed. The authorities denied reports that local government and security officials had ordered or condoned this violence.

The report criticized those Tutsi who refused to return home because they demanded, among other things, the arrest of people responsible for the violence. Although, according to the report, the Procuracy began investigations to establish the identities of those responsible for the violence, by May 1992 it seemed that no steps had been taken to prosecute anyone in connection with it. The report claimed that the Tutsi were always prepared for attacks on them because they provoked them and fled before Hutu bands could reach them. It accused those Tutsi who had previously been in prison of harbouring a spirit of revenge towards ordinary Hutu and the local authorities who had denounced them. In an apparent effort to justify violent attacks on the Tutsi, the report stated (without providing evidence to substantiate its claims):

"In fact, since the outbreak of this war, the Tutsi multiplied acts of provocation against the Hutu population, especially the youth were in contact with the FPR and believed in certain victory".

The internal report showed that anti-Tutsi sentiment is felt even at the highest levels and that many officials were unlikely to conduct impartial investigations. The report does not appear to have been made public.

In early March 1992 at least 60 Tutsi are reported to have been killed and many others injured by Hutu gangs in Kanzenze district (south of Kigali) and surrounding areas. Independent sources in Rwanda put the number of Tutsi killed at as many as 300. The gangs are reported to have burned houses and destroyed other property belonging to the Tutsi. A 55-year old Italian female missionary who was helping Tutsi victims was shot dead at Nyamata Roman Catholic church parish by a member of the Rwandese security forces on the night of 9 March 1992. The authorities reportedly arrested dozens of suspected attackers but did not order a public inquiry into the violence. Sources from the capital, Kigali, say that the recent violence against the Tutsi started after state-controlled Radio Rwanda broadcast what it said was the text of a tract on 4 March 1992, claiming that the FPR was planning to assassinate prominent Hutu politicians and that it had the support of the opposition political party known as the *Parti libéral* (PL), Liberal Party. The radio broadcast is reported to have hinted that the Hutu should defend themselves against the enemy. Many Hutu accuse Tutsi of supporting the FPR and the Tutsi are thus regarded as a "fifth column" or the enemy. During the violence Hutu gangs appear to have used the broadcast as a pretext to attack the Tutsi.

A member of a human rights group known as *Kanyarwanda* was arrested by the security police at the end of March 1992 apparently because he had been among signatories to a statement which blamed the violence in southern Kigali on government and security officials. **Fidèle Kanyabugoyi**, who comes from the Bagogwe clan in northwestern Rwanda, had also been involved in collecting information about the killing of about 1,000 Bagogwe in early 1991. The security police reportedly searched his home and office for documents relating to his investigations. He was held for several days at Kigali central prison and reportedly charged with endangering the security of the state. He was released provisionally on 3 April 1992 but had his movements outside Kigali restricted to a 20 kilometre radius, pending his trial. While in custody he was clearly a prisoner of conscience imprisoned for working on behalf of victims of human rights violations.

Amnesty International is concerned that in many cases no form of official investigation appears to have been carried out to establish the circumstances in which killings have occurred and to bring those responsible to justice. Government officials appear to have accepted uncorroborated claims by members of the security forces that such killings had occurred only when they or others were under threat. The organization is also concerned that reports of extrajudicial executions carried out by government troops in various parts of the country currently under government control remain uninvestigated. It fears that this may lead government forces, and even Hutu civilians, to believe they can commit further atrocities with impunity.

8.Human rights abuses by the FPR

Following the outbreak of the rebellion FPR insurgents too are reported to have committed atrocities including killing civilians in northern Rwanda. The victims were apparently suspected by the FPR of supporting or betraying them to government forces. At least 15 Zairian soldiers from Zairian army units assisting the Rwandese security forces were said to have been killed in custody in October 1990 following their capture by FPR rebels. Amnesty International has received reports that the FPR summarily executed captured government soldiers. The FPR has also been accused of forcibly conscripting children into its ranks.

Since 1991 Amnesty International has received reports that FPR fighters have attacked and killed or

injured people in camps of civilians displaced by the fighting, and health centres in northern Rwanda. Sources in Rwanda say that the FPR carried out the attacks to obtain food and medical supplies stocked for the displaced people. For instance, at least 20 people were reportedly killed by the FPR in a series of raids between the end of November and early December 1991 on camps for displaced people, health and trading centres in Muvumba district, in Byumba prefecture. Places most affected by the raids are Rwebare, Nyarurema health centre and Karama trading centre. Houses belonging to people in the area are reported to have been burned and other property destroyed by the FPR fighters. Parts of Muvumba district were reportedly under FPR control in early 1992.

An 87-year old French nun and about eight other civilians were reportedly killed on 25 February 1992 by FPR fighters who attacked a Roman Catholic convent, a trading centre and a health centre in Rushaki district, Byumba prefecture. The FPR has denied that it carried out this and other previous attacks on civilians.

9.The government's response to Amnesty International

9.1 Torture

The Rwandese authorities have not acknowledged that torture has occurred over the past 10 years. Amnesty International representatives in the country in June 1991 were told by government officials that torture was not inflicted in Rwanda and that existing laws and regulations regulating detention procedure and the treatment of detainees were adequate to prevent it. The authorities maintained that a particular prisoner, **Pastor Alfred Chafubire** (who had died in custody in December 1990, reportedly as a result of beatings, and whose case had previously been raised by Amnesty International) had been assaulted by civilians present at the time of his arrest, not members of the security forces, and that they had suspected him of having links with the *Inkotanyi*.

Not only do the authorities' contend that torture does not occur in Rwanda but, furthermore, no member of the security forces is known to have been prosecuted following the October 1990 events, or punished, for subjecting a detainee to torture or any other form of cruel, inhuman or degrading treatment or punishment. In 1985 the authorities admitted that torture had taken place in the mid-1970s and had been partially responsible for the death, in atrocious circumstances, of more than 50 political prisoners, including former government ministers. However, these killings were blamed on the head of the security police (the *Service central de renseignements*) at the time **Major Théoneste Lizinde**, and a few others who worked with him. The authorities have consistently maintained that no fundamental changes were necessary to prevent torture. Major Théoneste Lizinde and the others blamed for the deaths were tried behind closed doors by the High Court in Ruhengeri and sentenced to death. There was no independent investigation into how the deaths had occurred, who else might have been responsible or how similar killings might be prevented in future. No compensation would seem to have been paid to the victims' families.

9.2 Extrajudicial Executions

In June 1991 the Amnesty International representatives were told by senior Procuracy officials that no inquiries had been conducted since October 1990 into reported human rights abuses or violations of humanitarian law as no cases had been drawn to the Procuracy's attention. Even those cases that had been brought to the authorities' attention by Amnesty International had not been properly investigated. Nevertheless, the same senior Procuracy officials indicated that they were not obliged to wait until a formal complaint was filed to start an inquiry, but could do so on their own initiative if there were good reason to believe that offences have been committed. Their failure to conduct any investigations -- despite press and other reports of the "disappearance" of prisoners at the time of the October 1990 mass arrests, of killings of captured combatants and other prisoners, and killings following the occupation of Ruhengeri by FPR insurgents in January 1991 -- suggested that the Procuracy was decidedly reluctant to start investigating into certain killings, whether deaths caused by the army or other branches of the security forces (investigation of which might have been interpreted as unpatriotic or might have demoralized the morale of the unit in question) or killings in the course of intercommunal conflict.

In August 1991 the Minister of Justice responded to Amnesty International's inquiries about extrajudicial executions reportedly carried out by or with the complicity of the security forces. The Minister said that the Procuracy had started investigations into the allegations in order to establish the facts and bring those responsible for extrajudicial executions to justice. He did not indicate when the investigations had begun and his statement that investigations were proceeding appeared to conflict with that of senior Procuracy officials who, two months earlier, had said that they had not received any complaints of human rights abuse by the security forces. The investigations appear not to have started in the aftermath of the killings, but only when organizations such as Amnesty International had raised the matter months later. Neither are the inquiries known to have reached definitive conclusions nor to have confirmed that members of the Rwandese security forces were implicated in unlawful killings.

The Minister of Justice expressed the view that the killings had been due to public panic and Tutsi provocation. This might explain certain incidents but Amnesty International is concerned because the frequent repetition of such an explanation appears to be part of a consistent effort by the Rwandese authorities to shield the security forces from criticism. The examples of human rights violations cited in Chapter 7 suggest that certain government officials and members of the security forces condoned or even participated in the killing and torture of non-combatant civilians. In his letter to Amnesty International the Minister of Justice said that two local government officials in Ngororero sub-prefecture were arrested in October 1990 and subsequently dismissed from their posts following intercommunal disturbances there.

Amnesty International welcomes the assurances that investigations into alleged human rights abuses have begun. However, it remains unclear whether any steps have been taken by the authorities to ensure the impartiality and independence of such investigations. Guaranteeing this would seem to be vital as in some cases reported in the past (for instance during State Security Court trials in January 1991) the officials responsible for ensuring impartiality and independence have failed to do so. Frequently the authorities have claimed that acts of violence have been a matter of Tutsi provoking Hutu, and neither have they gone into further detail nor established individual responsibility. Thus investigators should be those who are known for their impartiality and investigative expertise and Amnesty International has urged the government to establish special investigating bodies rather than just relying on normal criminal justice procedure.

10.Amnesty International's past concerns, and recommendations to the Rwandese government

Amnesty International representatives visited Rwanda previously in 1986. The organization subsequently submitted a series of recommendations to the government on how best to protect human rights. Clearly had these recommendations been implemented many subsequent human rights abuses, especially in connection with the October 1990 crisis, could have been avoided. Many of these points are still relevant today and are summarized here in the hope that the Rwandese authorities will see that the recommendations are carried out.

10.1 Legislation restricting freedom of expression

Following various trials before the State Security Court in the first half of the 1980s, Amnesty International called on the authorities to repeal Article 166 of the penal code. The authorities, however, have not done so; this provision was still being invoked in mid-1991 to justify the imprisonment of journalists whose published or unpublished writing had displeased the authorities. Under Article 166 people responsible for publications believed to have "incited or attempted to incite the public against the authorities" or to have "alarmed the population and thus sought to cause disturbances in Rwanda" are charged with endangering the security of the state and may be sentenced to between two and 10 years' imprisonment. In 1990 and 1991 this charge appears to have been formally brought against only one journalist, **Rwabukwisi Vincent**, the editor of *Kanguka* newspaper.

In April 1983 Amnesty International wrote thus to the Minister of Justice about 15 people convicted in November 1981 of distributing seditious documents as follows:

"Amnesty International is deeply concerned that a law enacted to proscribe endangering the internal security of the state should have been invoked to punish with imprisonment activities related to the non-violent exercise of human rights, in particular the right to freedom of expression. The organization is particularly concerned that the terms 'either incite or attempt to incite the public against the authorities' and 'either alarm the public and thus seek to cause disturbance in the country' may be interpreted, according to article 166 of the Penal Code, as covering criticisms, written or verbal, of senior government officials".

In its September 1986 memorandum to the government of Rwanda the same point was raised:

"Amnesty International is concerned that Rwandese law may be interpreted so as to make activities which appear to constitute non-violent exercise of human rights punishable by imprisonment. This is particularly the case with Article 166 of the Penal Code, which provides no clear indication of what sorts of activities are to be interpreted as having "excité ou tenté d'exciter les populations contre les pouvoirs établies" or "alarmé les populations et cherché ainsi à porter le trouble sur le territoire de la République" and therefore constitute an offence. Amnesty International has observed in countries throughout the world that laws prohibiting public statements or the distribution of documents which might incite people against the government, which are phrased in general terms, as in the case of Article 166 of Rwanda's Penal Code, may be used to imprison non-violent critics of the government or others who have in fact been exercising their rights of freedom of expression in a non-violent way. Furthermore, in the cases of prisoners who are suspected of having committed more specific offences against the state, it may be relatively easy for the

prosecution to obtain their conviction under the terms of a loosely-worded law of this sort, rather than pressing more specific charges, with the result that the prisoners concerned appear to be prisoners of conscience.

"Amnesty International bases its work on the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*, to which Rwanda acceded in 1975. The only grounds for restrictions on the rights to freedom of expression and association allowed for by the Covenant are those which are necessary for: a) respect for the rights or freedoms of others; b) protection of national security, public safety or public order, and of public health or morals. According to the Covenant, these restrictions must be defined in national legislation. The terms used in Article 166 of the Penal Code are, however, imprecise and overly broad, raising concern that some of those convicted under its terms may have been imprisoned for exercising their rights in a legitimate way. When they have not used or advocated the use of violence, Amnesty International regards them as prisoners of conscience".

On a number of occasions in recent years the State Security Court has sent people to prison for doing things which amounted to peacefully exercising their human rights. In October 1986, for example, the State Security Court convicted nearly 300 people for the peaceful expression of their religious beliefs and sent them to prison for up to 12 years. All those sentenced were prisoners of conscience. They had all been pardoned and released by mid-1987.

After studying some of the procedures followed in the trials of October 1986 trials before the State Security Court, Amnesty International concluded that in many ways they had fallen short of international standards and that the verdicts should be immediately reviewed and the State Security Court procedure reconsidered.

10.2 Torture

Having heard details about the mid-1970s' torture and killing of more than 50 political prisoners and about the reports of further cases of torture and long-term confinement in unlit cells in the early 1980s, the Amnesty International representatives in Rwanda in 1986 told a wide variety of Rwandese officials that they were concerned by such torture allegations and said they would like to know what was being done to rectify the situation. The response of the officials was to deny that torture was taking place and to assert that there were adequate means of preventing it. The Procurator General of Kigali Appeal Court told the delegation that no-one had ever been referred to him bearing torture scars. The Secretary General of the security police said his service no longer held prisoners. Those arrested by the security police were said to be kept in National Gendarmerie custody. The Commander of the Kigali Group of the Gendarmerie said no form of ill-treatment was allowed. Such officials referred to the procedures specified in the *Code of Penal Procedure* to prevent arbitrary detention which, they said, were generally respected; and as they permitted detainees to be seen regularly by Procuracy representatives this meant the former had some safeguard against torture by the security forces. However, the reports received by Amnesty International about torture inflicted after the October 1990 rebellion suggest that these procedures were not in fact applied. Indeed, in conversation with Amnesty International representatives, some human rights observers have remarked that torture is endemic in Gendarmerie detention centres and that the entire force appears unable to come to terms with this problem.

10.3 Ending confinement in dark dungeons

In its 1986 memorandum to the government, Amnesty International pointed out the international prohibition, agreed by the United Nations, on keeping prisoners in dark cells as punishment for disciplinary offences[2]. The organization stated:

"Amnesty International is concerned by the fact that prolonged detention in dark cells constitutes a form of cruel, inhuman or degrading treatment. Furthermore, even the existence of unlit isolation cells allows the arbitrary recourse to this form of punishment. The organization consequently recommends that measures - boring windows and other arrangements intended to ensure sufficient lighting in the isolation cells - should be taken to bring an end to this form of punishment."

11.Amnesty International's 1992 recommendations on protecting human rights

11.1 Ensuring fair trial

Amnesty International is once again urging the Rwandese authorities to take steps to ensure that the trials of people accused of political offences are conducted in accordance with international standards. The organization is particularly concerned that State Security Court judges are selected by a method that rules out "improper motives"[3], that they have security of tenure and that they are impartial, without being influenced by external factors. All defendants should realize they are entitled to proper, independent legal counsel and that those who cannot afford legal fees can be assisted by the state. Legal counsel should be mandatory when defendants are liable to be sentenced to lengthy imprisonment or to death. Similarly, the fairness of trials before military courts should be guaranteed.

Owing to State Security Court shortcomings ever since its formation - particularly the absence of a right of appeal and its lack of independence - the authorities should consider abolishing it and referring political cases instead to the normal criminal courts. This would accord defendants accused of offences against the security of the state at least the same rights as other prisoners.

11.2 Protecting citizens from arbitrary arrest and detention

Rwanda's laws on detention procedure require all detainees to be referred to a judicial authority within a few days of arrest and permit them a number of opportunities to challenge the reasons or legal grounds for their imprisonment. In practice, however, such procedures have not been followed in political cases for many years and there are no real safeguards against arbitrary and unlawful detention. Thus, there is an urgent need for the authorities to ensure that detention **practices** (as distinct from legally prescribed procedures) are modified in order to prevent arbitrary detention.

On arbitrary detention, the *International Covenant on Civil and Political Rights*, which Rwanda ratified in 1975, is explicit:

2The *Standard Minimum Rules for the Treatment of Prisoners* adopted in 1955 by the First United Nations Congress on the Prevention of Crime and Treatment of Offenders, and most recently approved in May 1977 by the UN's Economic and Social Council (ECOSOC) by its resolution 2076 (LXII), requires, in its Rules 9 to 11, all detainees to have sufficient room and light.

3As required by Principle 10 of the *Basic Principles on the Independence of the Judiciary*, adopted by the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders in 1985 and endorsed that year by the United Nations General Assembly.

"Everyone has the right to liberty of person, no one shall be subjected to arbitrary arrest or detention ..." (Article 9.1)

Any detention carried out without due process of law must be considered arbitrary. It is to prevent cases of arbitrary and unlawful detention that Amnesty International has urged the Rwandese authorities to introduce a procedure or mechanism which provides further guarantees against arbitrary detention.

One of the side effects of such guarantees is protection of detainees from torture and other forms of cruel, inhuman or degrading treatment. For instance, ensuring that every detainee is referred to a judicial authority after no longer than the legally permitted period in police custody could considerably reduce the risk of torture. The maximum period for which anyone may be held incommunicado should also be determined by law. In Amnesty International's experience, it is during **incommunicado** detention that detainees most risk being tortured and ill-treated, so this period should be severely curtailed or abolished altogether.

The requirement for detainees to appear before a judge or magistrate within the time limit prescribed by the *Code of Penal Procedure* has seldom in the past been respected in Rwanda, especially in the case of political detainees. It cannot be over-stressed that anyone who is arrested and detained should immediately be brought before a judicial authority, as stipulated in Article 36 of the *Code of Penal Procedure*, the *International Covenant on Civil and Political Rights* and the *Body of Principles for the Protection of all Persons Under Any Form of Detention or Imprisonment* which was adopted in December 1988 by the United Nations General Assembly.

Allowing detainees or their families to lodge complaints in court against the authorities responsible for the detention - in the case of both police custody and pre-trial detention - is an important safeguard against arbitrary detention. In the past, detainees' families almost never dared to challenge detentions in this manner. Nevertheless, all over the world countries with very different judicial systems have mechanisms whereby detainees' relatives or lawyers may demand the production of the detainee before a judge or magistrate and require the authorities responsible for the detention to explain the legal basis for it.

The judicial authority before whom detainees are brought must be entitled to free anyone whose detention seems unnecessary. Exercising this power clearly requires the judicial official in question to be free of any form of outside pressure to detain people who have not been charged or convicted of any recognizably criminal offence.

In English and Portuguese-speaking countries this mechanism is known as *habeas corpus*. In Spanish-speaking countries, it is known as *amparo*. It is used both to prevent arbitrary detentions and to oppose torture and "disappearances". The security forces responsible for detention and interrogation might be less likely to resort to torture were they obliged, at any moment, to produce detainees in court; and in countries where detainees "disappear" or are secretly killed such a procedure to some extent enables relatives to compel the security forces to give the courts information to tell them whether they are holding a particular individual.

11.3 Preventing torture

Preventing torture requires major reforms in detention and interrogation procedure in Rwanda. It requires the introduction of **safeguards** which are applicable in practice and do not just exist in theory in the *Code of Penal Procedure*. In June 1991 Amnesty International representatives gave Rwandese officials copies of the organization's "12-point program" against torture, urging them to carry it out. In the short-run, the authorities should, in Amnesty International's view, at the very least adopt the following measures, which are based on international minimum standards:

1.Clearly, from the top level, inform all law enforcement personnel that torture is not permissible in any circumstances.

2.Stop keeping suspects in incommunicado detention. Let them see relatives, independent doctors and lawyers soon after they have been arrested and regularly thereafter. This would mean people other than security or judicial officials could testify that torture had not occurred. The prison authorities could not, therefore, deprive prisoners of family visits as a form of disciplinary punishment (as happens at present), nor could visits be forbidden for weeks or months on end while cases were being investigated by the Procuracy or while prisoners waiting for their appeals against conviction to be heard.

3.Require both detaining authorities (such as the Gendarmerie or the *Service central de renseignements*) and the prison service to inform all new prisoners of certain basic rights they have, particularly the right to a medical examination or to see a lawyer. Although detainees at present are legally entitled to a medical examination, clearly most do not realize this and few of them are examined by a medically qualified person on arrival in custody. Subsequent medical examinations of those alleging they have been tortured cannot consequently establish when any injuries were inflicted or whether they were inflicted after the detainee was taken into custody.

4.Require the authorities to keep accurate records of interrogations, including the length and duration of sessions, the names of interrogators, guards and others present and the results of medical examinations. Also ensure that all interrogations are conducted by the Procuracy and not by the authorities having custody over the detainee.

5.See that regular, independent inspections are made of all places of detention.

6.Conduct independent, impartial investigations into all reports of torture, in order to ascertain whether torture has taken place. It is important that the ways in which investigations are conducted, the ways of judging whether or not torture has taken place and the results of the investigations are publicized so that both the general public and the torture victims themselves can have confidence in the proceedings. Complainants and witnesses should be protected from intimidation. If torture is found to have occurred the investigating authority should try to establish who was responsible and in what circumstances the torture was inflicted.

7.Instruct any authority investigating reported torture to recommend prosecutions and disciplinary measures as well as changes in procedure to prevent torture recurring. It should see that any statements made by victims under duress are not used as evidence in court against either the victims themselves or others; only as evidence against those accused of inflicting torture.

8.Prosecute and punish those responsible for torture.

9.Compensate torture victims and their dependants. Victims should be given appropriate medical or rehabilitative treatment.

10.Accede to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, which was adopted by the United Nations General Assembly on 10 December 1984. This obliges ratifying states not only to prohibit torture but also to conduct official investigations when torture is reported. The government should ensure that the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* can be invoked in court.

In addition the authorities should forbid cruel forms of tying or restraining prisoners, particularly those practised by the armed forces. It should forbid the use of dark dungeons.

A 1986 Amnesty International recommendation on dark dungeons was not implemented and such cells were still being used in late 1990. In Amnesty International's view, keeping prisoners in such cells constitutes cruel, inhuman or degrading treatment and the use of such cells should therefore be immediately forbidden. This should be officially stated and made known to lawyers and prisoners as well as to all members of the prison service.

11.4 Ending Extrajudicial Executions

During a conflict as marked by intercommunal tension as the present one in Rwanda it is likely to be difficult to establish the exact circumstances in which many killings have occurred. However, the Rwandese authorities have evidently tried to prevent these tensions degenerating into general intercommunal strife. It would be in line with this were the authorities themselves to show that both government officials and security forces are impartial and that the country's criminal investigation procedure is not biased. If this is to happen all killings must be thoroughly investigated, so that those responsible for them are identified, and all government officials or members of the security forces involved in extrajudicial executions or other unlawful killings or actions must be brought to justice.

Government officials have repeatedly claimed that no extrajudicial executions have been carried out by the security forces, and that they have not been responsible for any unlawful deaths since the October 1990 mass arrests. However Amnesty International is concerned by reports that prisoners were deliberately killed by security forces during the period. It believes that, as a matter of urgency, the authorities should conduct an impartial investigation into such reports and punish any guilty security force members.

The best way for the authorities to prevent extrajudicial executions would, in Amnesty International's opinion, be by clearly indicating to all soldiers and members of the security forces that the killing of prisoners is absolutely forbidden in any circumstances. On 5 October 1990, just a few days after fighting broke out in northern Rwanda, Amnesty International appealed to President Habyarimana Juvénal to "take measures to ensure that various units of the security forces do not commit abuses". To guarantee that extrajudicial executions did not occur, the organization urged the authorities in particular to:

"give clear instructions to members of the Rwandese security forces that the use of force is unjustified except in exceptional situations where life is threatened and that the use of military or other weapons against unarmed civilians in other circumstances is considered a violation of fundamental human rights and that those responsible will be brought to justice."

The United Nations has recently offered guidance to member-states on the best

procedures to follow when reports are received of "extra-legal, arbitrary and summary executions[4]".

4By Resolution 1989/65 on 24 May 1989 on "Effective prevention and investigation of extra-legal, arbitrary and summary executions", the UN's ECOSOC called on all governments to take into account and respect a series of Principles on the *Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*. The Principles give some guidance on procedures for investigation and suggest that if the established investigative procedures (for example of the Procuracy) are inadequate, governments should establish independent commissions of inquiry.