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Healing the scars of genocide in Rwanda

It is 10 years since the 1994 armed conflict and genocide in Rwanda in which more than a million people lost their lives, but the scars of 1994 remain fresh.

An International Criminal Tribunal for Rwanda has been established in Tanzania to try those suspected of leading the genocide, but the Rwandese government has repeatedly opposed its operation and hindered its progress, already bogged down by managerial and logistical problems in spite of the significant resources allocated.

Less than 10 per cent of individuals detained as genocide suspects have been tried in the country's ordinary jurisdictions. Court proceedings continue to reflect the hostile socio-political environment existing outside the courtroom. There is little public confidence in a criminal justice system in which the impartiality and independence of the judiciary are open to question and arbitrary arrests and unlawful detentions continue.

Community-based "*gacaca*" courts, set up throughout Rwanda to establish the truth about the genocide and speed up the process of trying the many thousands accused of involvement, have, so far, failed to bring anyone to trial.

The *gacaca* courts are accused of being biased against those who acted on behalf of the former government and not trying others who committed serious human rights violations in support of the current government. Many witnesses are afraid to testify fearing reprisal by their neighbours.

The task is not becoming easier: the provisional release of detainees who confessed to participation in the 1994 crimes has led to the incrimination of another 250,000 individuals. Eighty thousand people are being held in prisons so overcrowded that preventable disease and malnutrition have led to a reported 11,000 deaths since 1994.

One female detainee, aged 72, in what was formerly the women's prison in Byumba, told AI in March 2003: "I was 63 years old in 1995 when I was arrested, accused of participating in the genocide... There were no charges against me, and the other prisoners in Byumba also found me innocent. I thought *gacaca* would resolve everything. The police who arrested me whipped me heavily, and left me permanently incapacitated."

The women who survived the genocide did not escape unscathed – in addition to suffering trauma, some organizations report that as many as 75 per cent of genocide widows are infected with HIV as a result of rape. Many of these women are left destitute and, when they eventually succumb to their illnesses, leave behind orphan children.

And the violence against women continues. In the hillsides of Rwanda, young men with minimal training are given uniforms and guns and sent to patrol the communities. These "Local Defence Forces" are accused of raping women in many of the local communities they are supposed to serve. The accused are rarely prosecuted. In the few instances in which they are tried, convicted, and imprisoned, they are invariably

released in a few days. They act with near total impunity.

Despite international praise being heaped on Rwanda for its progress, an atmosphere of intimidation and repression pervades Rwandese society. Journalists cannot work freely, and some report frequent death threats. Political life and civil society in Rwanda are severely restricted. There are no independent political parties, trade unions or human rights organizations that operate uncompromised. Associations are either shut down (if they prove intransigent), co-opted or infiltrated. Government officials and security forces make false accusations against alleged political opponents, who are quickly arrested and imprisoned, but rarely brought to trial.

Under such conditions, the ghosts of the genocide and war cannot be laid to rest. Rwanda can only truly heal if those responsible for genocide and crimes against humanity are brought to justice in a fair and open manner, and the rights of all its people are recognized and protected.

Haiti's human rights abusers re-emerge

Convicted perpetrators of human rights abuses are among the leaders of the rebel forces which took control of half the country in February, leading to the departure of President Jean Bertrand Aristide.

Louis Jodel Chamblain and Jean Pierre Baptiste (“Jean Tatoune”) are leaders of the rebel forces which have effectively taken control of parts of the capital, Port-au-Prince. Both men belonged to the paramilitary organization formed by the military authorities which took control of the country after the 1991 coup against the then President Aristide. The force was responsible for widespread brutality and human rights violations.

After a multinational force restored President Aristide to office in 1994, Louis Jodel Chamblain and Jean Pierre Baptiste were found guilty of taking part in the massacre at the shanty town of Raboteau, Gonaïves, in which homes were burned, men, women and children beaten and at least 20 people were killed. Louis Jodel Chamblain was also found guilty of the 1993 murder of Antoine Izméry, a prominent supporter of President Aristide.

Other former military or paramilitary leaders with records of serious human rights violations are among the prisoners who escaped from the National Penitentiary in Port-au-Prince in the chaos that followed President Aristide's departure from Haiti. It is feared that they will join their former colleagues in the rebel forces and may commit further human rights violations, including reprisal attacks against those who convicted them.

Some leaders of the political opposition in Haiti have reportedly indicated that they are willing to negotiate with convicted human rights offenders in the interest of political compromise. Such developments would have a devastating effect on the possibility of establishing a meaningful and lasting rule of law in the country.

The international community, through the Multinational Interim Force (MIF) that has been sent to restore order in the country, must ensure that notorious human rights abusers are not returned to power in Haiti. In spite of holding face-to-face meetings with some rebel leaders, MIF has yet to arrest convicted human rights perpetrators among the rebel commanders; this must be given priority among its tasks. MIF must also ensure the protection of the courageous judges, prosecutors and others who were involved in their trials. It must also put an end to abuses by all armed groups, whether

rebel forces or militias loyal to President Aristide.

So far, there has been no mass exodus from Haiti; worryingly, the small numbers of potential refugees who have tried to flee have been turned away from nearby countries such as the Dominican Republic and the USA. AI calls on all Haiti's neighbouring states to keep their borders open. Potential refugees must be given international protection and access to adequate asylum procedures. They must not be returned to any situation where their lives and safety may be at risk.

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Hundreds still held by US government in Guantánamo Bay

“Where is my Dad?”

Isa al-Merbaty's five-year-old son, January 2004

Isa al-Merbaty's wife and five children have not seen him for over two years. He is one of five Bahraini nationals being held thousands of miles away at Guantánamo Bay, the US military base in Cuba where more than 600 people are being detained without charge, access to lawyers, relatives or the courts.

With the welcome releases in recent months of some Guantánamo detainees, we must not forget that hundreds more non-US nationals remain indefinitely detained thousands of miles from their homes. Neither must we forget the emotional impact such enforced separation is having on the families.

AI has launched a new round of campaigning for individuals detained at Guantánamo, focusing initially on Kuwaiti and Bahraini nationals, and offering solidarity and support to their families. AI activists will be calling for the fair trial or release of the detainees, for them to be treated humanely and granted their full legal rights, including access to lawyers. Members will be asking questions not only of the US government, but also of the detainees' own governments.

Focusing on individual detainees may make a difference. In August 2003, AI launched a web action on behalf of Wazir Mohammad, an Afghan national who had been arrested, labelled a threat to US security, and transferred to Guantánamo. Three months after the launch of the web action, Wazir Mohammad was flown back to Afghanistan, where AI delegates met him in February 2004.

Wazir Mohammad's brother, Taj Mohammad, told AI, “If your organization had not brought my brother's case to the attention of the international community, he would still be in Guantánamo Bay. I cannot thank you enough for all the work that you have done on his case...”

Wazir Mohammad lost more than a year of his life in a legal black hole on the other side of the world. AI has seen no information indicating why this happened, other than that he was in the wrong place at the wrong time. He was never given a chance to challenge the lawfulness of his detention in a court or to seek legal advice. None of those released from Guantánamo have been charged, including three young children returned to Afghanistan in January 2004. None is known to have been compensated for the time they were detained in legal limbo in US custody.

Others have been transferred from Guantánamo to continued detention in their home countries where, in some cases, AI fears they may be at risk of further serious violations. These include four Saudi Arabian nationals and seven men from the Russian Federation. Having publicly branded the Guantánamo detainees as

“terrorists” and “killers”, US officials may have increased the dangers repatriated detainees face at the hands of their own governments.

For those released, their experiences in US custody in Guantánamo and elsewhere are likely to scar the rest of their lives; for some of those transferred to continued detention and for the hundreds still at the base, the future is bleak. Many of the remaining Guantánamo detainees face the prospect of continued indefinite detention without trial, others face inherently unfair trials by military commission with no right to appeal. Even acquittal in such trials may not mean release.

Meanwhile, their families back home wait for news. Knowing that AI members around the world share their concerns may bring some degree of solace.

Iraq: one year on

One year since the invasion of Iraq by the US-led Coalition, the Iraqi people continue to suffer serious human rights violations.

Since April 2003 scores of unarmed people have been killed as a result of excessive or unnecessary use of lethal force by Coalition forces at public demonstrations, checkpoints, and during house raids. Thousands of people have been detained, often under very harsh conditions, and subjected to prolonged and frequently unacknowledged detention. Many have been tortured or ill-treated and some have died in custody; hundreds are being held in violation of international standards. Serious breaches of international humanitarian law have taken place such as collective punishments including the deliberate destruction of crops and houses.

Armed groups, either opposed to the occupation or in a witch hunt for former Ba’athists, have been responsible for the deliberate and indiscriminate killing of hundreds of civilians and the murderous attacks against the UN headquarters and humanitarian agencies like the International Committee of the Red Cross.

In the prevailing state of lawlessness, widespread human rights abuses against women, including honour killings and domestic violence, continue to go unchallenged and unpunished. There are also fears about abuses against children, and growing rates of child labour. Impunity for human rights violations committed by the regime of Saddam Hussein, the occupying forces and by armed opposition groups is practically absolute.

“We want justice, but we cannot be patient for justice forever,” one Iraqi told AI during a visit to the country in 2003. One year after the fall of Saddam Hussein, the people of Iraq are still waiting.

For further information see, *Iraq: One year on the human rights situation remains dire* (MDE 14/006/2004).

Secret exhumations of mass graves in Algeria

The remains of dozens of people were reportedly secretly exhumed from a mass grave site in the western province of Relizane, Algeria, in January. The remains, believed to be of civilians abducted and killed by a local state-armed militia in the mid-1990s, were apparently transferred to an unknown location in an attempt to conceal or destroy evidence of human rights abuses.

A pair of waterproof trousers and a cigarette lighter found at the site were identified by a local family as belonging to their “disappeared” relative, Abed Saidane. The family said that Abed Saidane, a shopkeeper and father of seven, was wearing the

trousers when he was abducted in front of several relatives by members of a state-armed militia on 9 September 1996.

These militias are believed to be responsible for the “disappearance” of over 200 civilians in the province of Relizane in the mid-1990s. Human rights campaigners allege that several other mass grave sites in the same area were exhumed and relocated in 2000, in order to cover up the militias’ crimes. They have also raised concerns that the authorities failed to prevent the cover-ups because the perpetrators of the crimes are believed to be militias armed by the state.

The body parts found in mass grave sites constitute vital evidence for investigations which must be carried out into the thousands of “disappearances” and other human rights abuses committed in Algeria during the last decade. It is feared that some or all of the evidence contained in the mass graves in Relizane has now been destroyed.

Since 1998 around a dozen mass grave sites have reportedly been discovered in other parts of the country. Many of them are in areas which were severely affected by violence during the mid-1990s and are reported to contain the remains of up to scores of people killed by armed groups. Thousands of people have been abducted by armed groups since the 1990s. They are presumed to have been assassinated but their bodies have never been found.

The families of those abducted fear that the bodies of their relatives may be buried in mass graves and hope that they can be exhumed, identified and given a proper and dignified burial. Although the authorities have generally exhumed the mortal remains found in graves presumed to contain bodies of victims of armed group abuses, they have so far failed to investigate the mass grave sites in line with internationally accepted standards. To AI’s knowledge, only a few of the scores of bodies exhumed were identified.

AI has repeatedly called for a full, independent commission of inquiry into the gross human rights abuses, some of which amount to crimes against humanity, committed in Algeria since 1992 by armed groups, the security forces and state-armed militias. To date there has been almost no movement towards establishing the truth about these abuses and bringing those responsible to justice. Instead, the victims and their families are left without redress and the population without guarantees that the crimes against humanity they have witnessed in recent years will not be repeated.

For further information see, *Algeria: Steps towards change or empty promises?* (MDE 28/005/2003).

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Worldwide appeals

Philippines

Human rights defenders at risk in Mindoro Island before elections

Two women human rights defenders were killed in the eastern part of Mindoro Island in the Philippines in February.

Juvy Magsino (right), a human rights lawyer was running for mayor in the May 2004 elections, while Leyma Fortu (left) worked for the human rights organization Karapatan. Both women were affiliated with the left-wing political party Bayan Muna. On 13 February 2004, the women were driving to a friend’s house when two armed men shot at their vehicle. The two women died as a result of the attack.

While some observers blame the attack on election-related tensions, there are concerns that those responsible may be part of a vigilante group linked to a local brigade of the Armed Forces of the Philippines.

Over recent years a series of alleged extrajudicial executions have taken place within the context of military anti-insurgency operations in Mindoro. Eden Marcellana, a human rights defender working with Karapatan, and Eddie Gumanoy, a peasants' organization leader, were investigating a pattern of human rights abuses, often involving Bayan Muna supporters, when they were abducted by 20 armed men in April 2003. Their bodies were found later with gunshot wounds to their heads and signs of torture.

A fact-finding mission and a Congressional hearing found that the killings may have been linked to the 204th Army Brigade. The Brigade's then commander was transferred pending investigations. However, amid reports of witness intimidation, no criminal proceedings are known to have started, and in early 2004 the former commander was promoted.

AI fears that further killings of human rights defenders might take place in the coming months in Mindoro, in the election build-up.

Please write, calling for a prompt, independent and thorough investigation into the killings of Juvy Magsino and Leyma Fortu and for those found responsible to be brought to justice. Ask for those suspected of involvement in earlier alleged extrajudicial executions, including those of Eden Marcellana and Eddie Gumanoy, to be prosecuted without further delay. Urge the authorities to take measures to prevent further killings of human rights defenders or other civilians in Mindoro.

Send appeals to: President Gloria Macapagal-Arroyo, Malacanang Palace, J.P. Laurel St., San Miguel 1005, Manila, Philippines. Fax: +632 736 2495/ 733 2107/ 736 1010
E-mail: opnet@ops.gov.ph

Cuba

One year after the crack-down, 79 prisoners of conscience remain imprisoned

One year ago the Cuban government carried out a massive crack-down on opponents in which at least a hundred people were arrested. Many were subjected to manifestly unfair trials and sentenced to prison terms of between six and 28 years. Seventy nine of these have been declared prisoners of conscience by AI.

Although three have not yet been tried, the others were accused of activities such as publishing articles critical of economic, social or human rights issues in Cuba; involvement in unofficial groups considered by the authorities as counter-revolutionary; or having contacts with individuals viewed as hostile to Cuba's interests.

The Cuban authorities justified the crackdown on dissidents as a necessary response to US aggression towards the country. Cuba's laws provide stiff prison terms for those deemed guilty of supporting US policy against Cuba.

AI is concerned that most of the 79 prisoners have been deliberately incarcerated in prisons far from their homes and families and some prisoners have reportedly been held in solitary confinement for extended periods as a form of punishment for their political activities. There have also been some allegations of ill-treatment by prison guards or by other prisoners, reportedly with the complicity of prison guards. When

Víctor Rolando Arroyo Carmona complained about ill-treatment, he was reportedly dragged to the floor by three prison guards and beaten on the face and body. Guards allegedly trapped his leg in a door to immobilize him during the beating.

There are numerous reports of illnesses among the prisoners which have been aggravated by prison conditions and insufficient access to appropriate medical care.

In some cases, relatives of prisoners have reportedly been harassed by the authorities, due to their own dissident activities or their efforts on behalf of imprisoned family members. Such harassment has reportedly taken the form of threats, summonses, interrogations and curtailment of access to prisoners.

Please write, calling for the immediate and unconditional release of all prisoners of conscience in Cuba, including those arrested in the crack-down of one year ago. Pending their release, call for the authorities to provide prisoners with adequate medical care and treatment whenever necessary.

Send appeals to: Su Excelencia, Dr. Fidel Castro Ruz, Presidente de los Consejos, de Estado y de Ministros, La Habana, Cuba. Fax: +537 333 085. E-mail: siva@ceniai.cu or: f_castro@cuba.gov.cu

USA

Another Texan death penalty injustice

Kelsey Patterson (left), now aged 50, is scheduled to be executed in Texas on 18 May 2004 for a double murder committed in 1992. He has long suffered from serious mental illness, and was first diagnosed with paranoid schizophrenia in 1981.

There is no doubt that Kelsey Patterson shot Louis Oates and Dorothy Harris, and there would appear to be little doubt that mental illness lay behind this tragic crime. He made no attempt to avoid arrest – after shooting the victims, he put down the gun, undressed and was pacing up and down the street in his socks, shouting incomprehensibly, when the police arrived.

In 2000, a federal judge noted that “Patterson had no motive for the killings – he claims he commits acts involuntarily and outside forces control him through implants in his brain and body. Patterson has consistently maintained he is a victim of an elaborate conspiracy, and his lawyers and his doctors are part of that conspiracy. He refuses to cooperate with either; he has refused to be examined by mental health professionals since 1984, he refuses dental treatment, and he refuses to acknowledge that his lawyers represent him.”

A jury found Kelsey Patterson competent to stand trial. Yet his behaviour at his competency hearing, and at the 1993 trial itself – when he repeatedly interrupted proceedings to offer rambling narrative about his implanted devices and other aspects of the conspiracy against him – provided compelling evidence that his delusions did not allow him a rational understanding of what was going on or the ability to consult with his lawyers.

Despite being told of his execution date, Kelsey Patterson appears to be suffering from the delusion that he has received a permanent stay of execution on the grounds of innocence. He has written various letters to judges and to the parole board referring to this.

Please call for Kelsey Patterson's execution to be stopped in the interest of decency and the reputation of the State of Texas and the USA as a whole.

Send appeals to: Ms Rissie Owens, Presiding Officer, Texas Board of Pardons and Paroles, PO Box 13401, Austin, Texas 78711-3401, USA. Fax: +1 512 406 5482; and to: Governor Rick Perry, Office of the Governor, PO Box 12428, Austin, Texas 78711-2428, USA. Fax: +1 512 463 1849

Updates

New act to protect women in the Philippines

The Philippines have passed landmark new legislation, the "Anti-Violence Against Women and Children Act of 2004". AI and women's NGOs in the Philippines were closely involved in making recommendations on the Act's final text, which provides legal recourse and special protection measures for abused women and their children, while imposing heavier penalties for men who commit domestic violence.

New UN human rights appointment

Louise Arbour, the former UN war crimes prosecutor, has been appointed as the new UN High Commissioner for Human Rights. She replaces Sergio Vieira de Mello, who was killed in Iraq last year.

International student action

Students and young people from nearly 40 AI sections and structures worldwide took part in the International Week of Student Action from 16 to 22 February. As part of the Stop Child Executions! campaign, activists focused on the death penalty for child offenders in the USA and Pakistan. Activities included demonstrations, participation in radio and television programs, conferences, debates, exhibitions and film festivals. During the week several thousand signatures were collected on petitions and postcards for the action.

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China is dying for change

"What evidence do you have that you didn't commit the murder?" A high court judge in Heilongjiang Province before passing a death sentence despite inadequate evidence. Beijing Youth Daily, April 2002

The People's Republic of China has a criminal justice system which cannot guarantee a fair trial and yet it carries out more judicial executions than the rest of the world combined.

Defendants do not have the right to legal representation until after they have been interrogated – and possibly tortured – and even then access is strictly limited. The period of pre-arrest or pre-trial detention is often arbitrary, lasting in one extreme case for 28 years.

Not only does the Chinese government disregard international standards on the death

penalty, it also ignores its own domestic laws. Despite a prohibition on executing juveniles who commit a capital crime under the age of 18, a man was reportedly executed in January 2003 for a crime committed at age 16.

Torture by police is rife even though it is prohibited under Chinese law. There is no provision to exclude “confessions” extorted through torture from trials and people are often sentenced to death on the basis of such “evidence”. In recent years Chinese media have increasingly covered miscarriages of justice in death penalty cases.

There is no independence of the judiciary in China. “Judges must effectively enhance the Party’s leadership in people’s court work,” said Luo Gan, Director of the Central Committee for the Management of Public Security, Xinhua in December 2003.

The ruling Chinese Communist Party influences the judicial process at every level of proceedings with courts in particular being monitored and run by Party bodies.

In practice, there is no presumption of innocence. Courts often pass death sentences to “please” senior officials and the process of appeal can be summary.

A recent decision to promote lethal injection as a means of execution nationwide was reported in some quarters in China as “progressive”, “cost-effective” and efficient. However, it is feared that this could facilitate even higher rates of execution. Mobile executions chambers – converted buses in which convicts can be executed by lethal injection “immediately after sentence is passed” – are now used extensively.

AI monitored reports of 1,060 executions in 2003, but the true figure is certainly far higher. The Chinese authorities argue it is an effective deterrent to crime, while concealing from the public the true extent of its use of the death penalty under the guise of “state secrets”. Despite the huge number of known executions, China continues to experience rising levels of crime.

AI is calling on the Chinese government to impose a moratorium on executions during which time it should amend its penal code to enable it to ratify the International Covenant on Civil and Political Rights. Through these practical measures to safeguard human rights China would truly be joining progressive initiatives including the global trend towards abolition of the death penalty.

For further information see: China: *Executed ‘according to law’ – the death penalty in China* (ASA 17/003/2004).

Overcoming the past in Turkey

The past two and a half years have witnessed rapid legislative reform in Turkey, as the country strives to satisfy the terms of accession to the European Union (EU). Many of the reforms, which aim to bring Turkish laws into line with international standards, potentially offer greater protection of human rights.

These developments offer real hope for a new future for Turkey, a country with a troubled human rights record. But even as the work on legal reform goes on, the violations continue. Throughout 2003, AI received reports of torture and ill-treatment of detainees, unofficial detention and excessive use of force by law enforcement officials. Televised images of demonstrations exposed the brutality and inadequacy of policing practices, while reports described detainees being beaten, sexually harassed and subjected to verbal intimidation, death threats and even mock executions.

New laws aim to combat the impunity previously enjoyed by law enforcement officials accused of such violations, but still the ratio of reports of torture and

ill-treatment to investigations and prosecutions of alleged perpetrators remains extremely low. While this state of affairs continues, it is unlikely that law enforcement officials will begin to acknowledge that such brutality is unacceptable.

The government recently announced that articles of the Turkish Penal Code that are gender discriminatory will be amended. In a country where an estimated 30-58 per cent of women experience physical violence and the perpetrators are rarely brought to justice, this must be the beginning of a concerted and sustained effort to put an end to impunity for violence against women.

Legal reforms have also brought promise of greater freedom of expression in Turkey. But AI is disturbed by the continuing practice of prosecuting people who express non-violent dissent, among them human rights defenders, the subject of a recently issued AI report, Turkey: Restrictive laws, arbitrary application – the pressure on human rights defenders (EUR 44/002/2004).

These and other concerns were raised by an AI delegation led by the Secretary General during meetings with the Turkish Prime Minister, Foreign Minister and Interior Minister in February. The concerns were conveyed in the form of an AI Memorandum (EUR 44/001/2004). It was the first time an AI Secretary General had held meetings with such senior politicians in Turkey, and AI welcomed this new openness, as well as the recent legal reforms. Another aim of the visit was to meet with human rights NGOs and individuals who have been subjected to human rights violations.

AI will continue to monitor violations in Turkey and to urge the authorities to ensure full implementation of the letter and spirit of the new laws.