

UNAMIR

HUMAN RIGHTS REPORTS

[1 JULY 1994] - 20 MAY 1995

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With the compliments  
of the Chief, Human Rights Field Operation in Rwanda

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du Chef. de l'Operation des Droits de l'Homme sur le Terrain au Rwanda



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HAUT COMMISSAIRE AUX DROITS DE L'HOMME

HIGH COMMISSIONER FOR HUMAN RIGHTS



UPDATE ON THE ACTIVITIES OF THE  
HUMAN RIGHTS FIELD OPERATION IN RWANDA (HRFOR)  
7 APRIL 1995 - 5 MAY 1995

I. STATUS OF DEPLOYMENT AND FINANCIAL SITUATION

As of 5 May 1995, there are 124 members of the HRFOR, composed of the following: 53 fixed-term staff; 36 UN Volunteers; 32 human rights field officers contributed to the HRFOR by the European Union and 3 Experts, provided by Governments for the purposes of investigation (at present, Norway and Switzerland).

The HRFOR has its Headquarters in Kigali, and currently, has 11 field offices: 9 as prefectural headquarters (Butare, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali and Ruhengeri) and two additional offices in the southwest (Rwamagana and Rulima).

To meet the challenge of the human rights situation in the aftermath of the forcible closure of the IDP camps in Gikongoro Prefecture, HRFOR has taken emergency measures in those areas to which IDPs are returning. Thus, an emergency coordination structure has been established in Butare, covering the principally affected areas of Gikongoro, Butare and Bugesera: an additional 20 field officers have been moved in from other teams elsewhere (8) and from the newly arrived group of EU-contributed personnel who had just finished their training (12).

A statement of pledges and contributions is attached which indicates the situation as of 4 May 1995. The statement shows that the HRFOR has to that date received voluntary contributions to the amount of US\$ 6,296,768.19. This, together with the US\$ 3 million, advanced from CERF, has enabled the entry into spending commitments for the months September 1994 to end of June 1995 of US\$ 8.3 million. The remaining US\$ 1 million, will enable the Operation at current strength, to continue until around the end of the month of August 1995. This estimate does not include repayment of the CERF advance of US\$ 3 million.

II. HRFOR ACTIVITIES

A. Status of Genocide Investigations

An important part of the mandate of the HRFOR has been to carry out investigations into violations of human rights and humanitarian law. Since mid-September 1994 a special unit of the HRFOR named "Special Investigations

Unit" (SIU) and recently renamed LACU (Legal Analysis and Coordination Unit), has carried out numerous investigations and gathered basic information on the above-mentioned violations. The resources available to the SIU/LACU have included specialised personnel (prosecutors, investigators, criminal police and forensic experts) including experts made available by Norway, Spain, Switzerland, The Netherlands and the United States. In addition, the SIU/LACU has received assistance for its investigations and has coordinated information gathering operations, carried out by the human rights field officers deployed throughout Rwanda. Finally, the SIU/LACU has benefitted from the cooperation and assistance of many others, notably UNAMIR military personnel.

The SIU/LACU, has carried out, inter alia, in depth investigations into the April-July 1994 massacres at the following locations:

- Butare Prefecture: Karama, M'bazi, Nyumba, Nyakibanda;
- Cyangugu Prefecture: Shangi;
- Gitarama Prefecture: Ruhango;
- Kibungo Prefecture: Zaza, Nyarabuye;
- Kibuye Prefecture: Rwamatamu, Mubuga;
- Kigali Rurale Prefecture: Ntarama.

The respective reports and the evidence gathered at these sites were made available to the Special Rapporteur and to the International Tribunal for Rwanda (ITR). The latest collection of evidentiary materials was handed by the High Commissioner to the Deputy Prosecutor during his recent visit to Rwanda.

It is to be noted that an important aspect of the work of SIU/LACU consists in the coordination of information gathering by the human rights field officers. The field officers deployed throughout Rwanda were requested to gather information in a systematic manner to be transferred to the Special Rapporteur and to the Office of the Prosecutor. This work took place primarily from January to mid-March 1995 and included various categories of information, i.e. mass grave/massacre sites, witness identification, UNAMIR/Milobs contacts, Government contacts and NGO contacts. The purpose of this was to gather and record information in a standardized form.

In mid-April 1995, the SIU/LACU issued a detailed report to the High Commissioner for Human Rights who made it available to the Special Rapporteur and to the ITR.

LACU will continue its inquiries into violations of human rights and humanitarian law with a view to assisting the Special Rapporteur in his investigations in accordance with his mandate. LACU will continue to liaise with, and make available information and evidence, to the ITR.

## **B. The Current Situation**

### **1. In general**

In view of developments at the Kibeho camp, HRFOR activities have strengthened their focus on the closure of the camps for internally displaced persons in the southwest of the country. A detailed account of the events surrounding the forcible closure of Kibeho camp is provided below.

Another area of major concern in recent weeks was the human rights situation in Kibungo. Abusive practices were perpetrated by a combination of returning extremists, disorderly RPA soldiers and adolescent hooligans, who together terrorized villagers. To counter this problem, the number of teams of human rights field officers deployed to the area, was increased and reporting to the central Government authorities, was intensified. Given the relationship of the issue of IDPs seeking to return home, and in particular, of the forcible closure of the IDP camps in Gikongoro Prefecture (most notably at Kibeho), it was necessary to establish an emergency coordination structure, covering the relevant areas of Gikongoro, Butare and Bugesera.

Twenty-eight detainees died apparently from suffocation on 26 April 1995 in a communal detention cell in Butare. According to the human rights field officers in the area, the dead were internally displaced persons from the camps closed by force in the southwestern part of the country.

### **2. Special Report on Kibeho Camp Closure**

In the period from July 1994 to April 1995, camps for IDPs were created and maintained in south and south-west Rwanda. By April 1995, the population of IDPs in Kibeho camp was estimated by reliable sources as between 85,000 to 100,000.

On 18 April 1995 at 2:00 a.m., RPA soldiers began closing Kibeho camp, in what was officially termed a "cordon and search operation". Sporadic shooting was reported throughout the morning. Two human rights field officers from the Gikongoro team have been present since the beginning of the closure and the following account of events is largely based on their observations.

Around 10:00 a.m., RPA soldiers began closing Munini Camp. Some shelters were burned down, but people were allowed to collect some food and belongings. In the afternoon, the RPA began to close N'Dago camp and while panic amongst the IDPs resulted in some minor crush injuries, the situation remained relatively calm. Kamana Camp was closed the following day. Human rights field officers maintained constant monitoring of Kibeho over the next few days. Some persons were allowed at that time to bring some food and a few belongings. Incidences of panic occurred and some IDPs, especially children, were injured slightly when pressed against a barbed wire fence.

On 19 April, the HRFOR Gikongoro team had been present since early morning. IDPs had been leaving in small numbers while the RPA registered them. At that time, shooting, apparently for crowd control, was heard in the morning and afternoon. IDPs threw stones at RPA soldiers at which point the RPA shot at the IDPs. In the event, 16 people were killed by gunshot, two were trampled to death and two macheted to death presumably by hardline elements inside the camp, to total 20 persons killed. Some IDPs were apprehended by UNAMIR on suspicion of being responsible for having injured 44 IDPs by machete. There were individual cases of people arrested and having been taken away by the RPA. Areas along the road from Kibeho camp to Gikongoro were occupied by RPA soldiers. At 11.30 a.m., the local UNAMIR commander estimated that the number of IDPs who left, reached around 6,000. In the afternoon, more than 5,000 IDPs were leaving by foot.

On 20 April, some 20 people were arrested by the RPA on suspicion of having perpetrated acts of genocide. Some isolated killings occurred when a number of IDPs tried to escape from RPA custody.

On 21 April, road conditions had deteriorated very badly because of heavy rain. These conditions impeded the movement of IDPs by truck. However, around 900 IDPs were transported by six UNHCR trucks to Nyakizu. Around four hundred IDPs left the camp by foot for Nyakizu. At about 4:00 p.m., field officers witnessed a group of some 100 IDPs being pushed back into Kibeho camp despite the fact that they had been allowed to leave the camp only two hours prior. No explanations were given by RPA soldiers concerning this situation. In N'Dago camp, IDPs left the camp in large numbers during the morning.

In the early morning of 22 April, shooting started at Kibeho camp and did not stop until 11:00 a.m. Shooting resumed in the afternoon. Two members of Gikongoro team were at the UNAMIR compound, but were not able to ascertain who had started the shooting. It was following this development, that the greatest number of casualties were suffered. Around 6:00 a.m., one of the human rights field officers assisted a UNAMIR escort to collect about 30 severely injured IDPs and to bring them to the MSF Hospital. The injuries were the result of bullets, machete blows and beatings. According to local MSF staff, more than 200 IDPs were brought into the Hospital that night.

At 09:20 a.m. on 22 April, the RPA shot several volleys into the air, to force IDPs towards a registration point. IDPs threw sticks and stones at the RPA soldiers at which point the RPA shot into the crowd. At this moment, groups of IDPs tried to escape. However, a possible escape route was blocked because the RPA had surrounded the hill. Many IDPs panicked. At 9:30 a.m., in their panic, IDPs broke the main UNAMIR gate, invaded the parking place of the Zambian Battalion camp and then sought protection from UNAMIR. Thousands of IDPs then tried to force their way into the UNAMIR camp. Human rights field officers reported that IDPs threw their children over the gate to make them safe.

Field officers witnessed 15 RPA soldiers firing on IDPs. The UNAMIR escort reported hearing the firing of a rocket propelled grenade and one mortar. From just

after noon to 1:30 p.m., heavy firing was heard. Some 500 dead bodies were found laying in front of the main door of the UNAMIR camp.

At 4:00 p.m., heavy shooting started again until 5:45 p.m. Grenades, some launched by rocket propulsion, were witnessed. The shooting continued sporadically into the night.

On 23 April, further killings and arrests were reported on the road between Kibeho and Butare. Human rights field officers reported hundreds of essential items (plastic sheets, pots, shoes, food, etc.) abandoned on the road. Very young children were found nearby unaccompanied by adults. Human rights field officers together with UNICEF personnel took them to a Save the Children facility in Butare.

RPA soldiers ordered NGOs to transport all injured people only to Butare Hospital. Access of human rights field officers to the Butare Hospital was prevented by the RPA.

A group of people refused to leave Kibeho camp and sought refuge in the Médecins sans frontières (MSF) installation there. While food and water were denied to them, MILOBS and ICRC were allowed access. The RPA maintained an armed guard over the installation, and had given those inside several deadlines to leave or face an attack. However, each deadline passed without action on the part of the RPA after continued intervention by the Special Representative of the Secretary-General.

Two human rights field officers gained access to the camp on 29 April to assess the situation. They estimated the number of people remaining in the camp to be around 800, mostly women, children and the elderly. Conditions inside were atrocious with excrement everywhere. The only drinking water available was whatever could be gathered from rainfall. There was no apparent access to food. It has been reliably reported that there were armed elements in the camp.

Harassment, assaults and in some cases killings, continue to be perpetrated against those seeking to return to their home communes. The HRFOR has taken all measures at its disposal to facilitate the return of displaced persons and to promote establishment of mixed commissions in a number of communities to receive persons from the Kibeho camp. Human rights field officers are following up on the situation of returnees. Another important function of the HRFOR during the crisis was to help efforts launched by NGOs and such agencies as UNHCR and ICRC for humanitarian assistance.

In Butare, lack of food and shelter is reported as a problem for returnees. In the University Hospital at Butare, of the 300 people from Kibeho camp treated, some 20% had bullet wounds and the rest appear to have been injured by machetes or sticks. Some 5% appear to have suffered from dehydration as a result of having walked the distance from the camp without food or water. Eight deaths were recorded. At the MSF Hospital in Butare, around 300 people had sought assistance since 22 April. Of these, some 70% exhibited bullet wounds, and some 30% had been injured by machete.



Given the chaotic circumstances surrounding closure of the Kibeho camp, the HRFOR was not in a position to arrive at precise figures of persons killed. The revised UNAMIR estimate of up to 2,000 casualties roughly corresponds to HRFOR observations. Counting the number of casualties was complicated by the fact that following the shootings, the RPA at certain times was evidently transporting dead bodies out of the area.

At present, the main thrust of HRFOR response on the ground in the affected communes to which IDPs are returning, is:

- a) At the commune level, to establish working relations with the local officials, particularly for the purpose of getting the proposed joint committees of local and international officials (including UNAMIR and HRFOR) established and functioning; and
- b) At the sector level, to gain access and actively monitor abuses, particularly through checking on conditions of detention in which arrested IDPs are being held.

The HRFOR is working closely with the Minister of Interior in facilitating his visits on the ground to obtain or improve the cooperation of local authorities who report to him. It is to be noted that very recently there has been an improvement in the attitude of the RPA towards the HRFOR's gaining access to the sectors to which the IDPs have returned.

### 3. By Prefecture

#### Cyangugu

Tension has increased in Cyangugu as a result of the killing of 16 villagers in Bugarama commune on 14 April, following an exchange of gunfire between the RPA and former government army soldiers. According to the RPA, the people were killed by members of the former government army / Interahamwe. Both human rights field officers and the ICRC attempted to gain access to the detention centre where 2 of the attackers who were captured were said to be held, but both were denied access.

Regarding this incident, relatives of the victims reported shooting in the morning of 14 April in the village of Nyabishungu. At 1:00 p.m., a number of RPA soldiers arrived, and asked if any Interahamwe had been spotted in the area. The RPA threatened the villagers and beat some. On this occasion, 17 villagers were arrested. Their ID cards were later found at the site where 16 of them were killed. One witness said he saw men brought to the river with their hands tied behind their backs. They were lined up and shot. The day after the killing, MILOBs observed the villagers dragging the dead from the river. Sixteen persons were thereby confirmed dead.

The prefect of Cyangugu is a noted human rights defender who has cooperated closely with the HRFOR to the extent that circumstances permit.



### Gikongoro

The Gikongoro team has for the last week to ten days been fully engaged in monitoring the activities at Kibeho camp (see above) and the situation concerning returnees in the prefecture. A total of 1,789 IDPs have returned to Gikongoro thus far by truck, although additional returnees have travelled on foot. An armed attack has been recorded against one family in which one person was killed.

The present prison population has reached 704 detainees. Some 46 persons have been transferred from the Military Prison. Generally, prisoners have been treated correctly. The prefect of Gikongoro has told the HRFOR that soon a number of prisoners will be transferred from the prisons of Butare and Gitarama to lessen overcrowding there.

A local association for the development of rural women has requested HRFOR to produce a seminar on the rights of women to be held in Gikongoro, which was agreed upon.

It is to be noted that the efforts of the HRFOR in Gikongoro meet with good cooperation from the Prefect and other local authorities, including a few judicial officials. This cooperation is being further developed.

### Gisenyi

On 11 April, an HRFOR vehicle hit and fatally injured a young Rwandan girl. The HRFOR issued a press release on this accident indicating, inter alia, that a Board of Enquiry in accordance with United Nations regulations will be established.

Incursions into Rwanda from Zaire and a parallel rise in human rights violations were reported. The worst incident in recent weeks took place on 13 April, when 8 people were killed and a child was wounded.

On the night of 15 April at around 6 pm, a grenade was thrown at an RPA patrol. One RPA soldier was killed during the incident and one was seriously injured. An RPA patrol was also attacked around 1 am near Lake Kivu. The exchange of fire lasted for about 5 minutes until the RPA threw a grenade and the attackers fled toward Zaire. There were no injuries. The RPA has since suspended all activity along the lake from 6 pm on.

According to Milobs, one person was killed in the commune of Rubavu on 20 April, following a drunken quarrel with the RPA. Six RPA soldiers held up and robbed a local businessman.

The prison director at Gisenyi complained that prisoners previously detained at the military detention centre in Gisenyi were regularly arriving "half dead" from beatings and other torture. He requested HRFOR intervention to ameliorate conditions at the military prison. Human rights field officers have discussed the issue with an officer of the RPA and have attempted to meet with the Officer in charge of the prison but have been refused four times.

Human rights field officers also visited the prison at Byumba (prefecture to the north of Kigali) and arranged for the visit of a nutritionist to examine the prisoners. The Prison director maintains that he can do no more to alleviate conditions there because of insufficient personnel and resources.

From 11 to 14 April, a series of public talks and discussions were held at the prefecture about the genocide, its causes and consequences and what needs to be done to rebuild Rwandan society. Talks were given by local representatives of the Ministries of Rehabilitation, Social Affairs and the Family, a local Bishop, the Bourgmestre and the RPA Commander. Human rights field officers assisted the Ministry for the Family in its contribution.

#### Gitarama

The situation in Rwandan detention centres, continues to be of prime concern to the HRFOR. According to latest estimates, the number of detainees in Rwandan prisons is 35,000. Construction of a number of additional prison facilities has begun and some have already been completed in the following locations: Kibuye; Gitarama; Byumba; Nyanza and Ntsinza. Although the construction of additional prison facilities was intended to relieve the critical overcrowding crisis in Rwandan detention centres, it is still largely insufficient, given the fact that arrests continue. However, it is to be noted that most recently, the rate of arrests per week, has decreased.

A serious incident at Gitarama Prison followed the attempted escape of some inmates. One person was shot to death while trying to scale a wall. Four others were wounded by bullets and six others sustained injuries incurred by scaling walls and a roof spiked with nails. Human rights field officers viewed a cell which had clearly been shot into. Human rights field officers met with the Director of the Prison, the Prefect of Gitarama and the commander of the RPA, who were cooperative and allowed the field officers to speak with the prisoners. Prisoners were allowed to pose questions. Despite this cooperation, the RPA commander refused to speak to the prisoners and would not allow translation of the prisoners' questions.

One hundred and four persons sought protection from UNAMIR in one day in April. After protracted negotiations by human rights field officers during seven days with local, civil and military authorities and with the protection seekers, the latter returned to their homes in UNAMIR vehicles. The HRFOR later initiated a meeting with local inhabitants and with the prefect, also with the RPA commander and a number of chiefs of Sector and the Bourgmestre to promote confidence in the local authorities.

#### Kibungo

The Rwamagana and Kibungo teams in Kibungo Prefecture have been following a number of cases of people who have sought refuge in UNAMIR.

Kibungo is the prefecture where most of the abuses have been reported. An account is provided in the general section above. In addition to this account, the following should be noted.

On 21 April, the team was informed that 17 IDP families had left the open relief centre at Sake for Burundi. It is the considered opinion of the HRFOR team, as well as that of UNAMIR and MILOBs that the people had fled towards the border because of a general climate of repression in these communes. Upon investigation, the team found that 14 people from the Sake/Mugesera area, had been arrested by the RPA, close to the border with Burundi. UNHCR have been asked to confirm that IDPs from the Sake/Mugesera area have sought refuge in camps across the border.

#### Kibuye

The Kibuye team has registered major concerns about its security during the past two weeks. A large and hostile crowd gathered around the team's house on 20 April. Later in the week, the Prefect warned the HRFOR that they might no longer be authorised to work or live in the area.

There are 842 prisoners presently detained in the Kibuye prison. It was originally built to accommodate a prison population of 250. Work is currently progressing on the extension of the facilities. Prisoners will then be transferred from Gitarama prison bringing the population of the Kibuye prison to over 1,000 and the total number of detainees in the Prefecture to nearly 2,000, which is eight times the intended maximum capacity.

#### Kigali

The population of Kigali prison has reached 8,460 (20 April) as follows: 7,890 men; 279 women; 69 children (with their mothers) and 222 minors.

The Kigali team participated closely with the Integrated Operations Centre (IOC) to establish the process for involvement of the HRFOR in joint committees to be set up around the country to ensure effective and safe reintegration of IDPs into their home communes.

Renovation work has begun on a building at Gitagata to house 200 child detainees. The children are expected to be transferred shortly.

The military in charge of the prison has been subjecting the human rights field officers to some harassment as of late, insisting on being present at interviews and asking to read human rights field officers' notes. Cases of torture have been recorded.

#### Rilima

The Rilima team has also been involved in the last week with monitoring the large influx of returnees into the Bugesera area. The commune receiving the largest number of returnees is Ngenda. When the first group of three thousand arrived, most of the men were arrested and put into a communal room. When the room became full, those IDPs still on trucks were not allowed to disembark for

several hours. The Minister of the Interior visited the area, was briefed by HRFOR and he instructed the RPA to cooperate with UNAMIR. After that, matters quietened down in the commune. The team has reported that all is proceeding reasonably smoothly. UNHCR and ICRC are supplying blankets and food to the returnees before they leave the reception centre. No official arrests have been made, although fifty persons have been detained so that the Inspector of the Judicial Police can interview them. In Ngenda, 150 people have been detained.

Human rights field officers were heavily involved all week, trying to improve the conditions of returnees and trying to lift restrictions on returnees. For instance, human rights field officers, strongly protested the inhumane treatment of detained persons and procured medical assistance from the local dispensary.

#### Ruhengeri

Human rights field officers organized the transfer of 14 prisoners from the detention centre at Ruhondo commune to the brigade at Ruhengeri because of serious overcrowding. Around 30 returned refugees complained that they had been ordered to appear before the commune authorities to prove their innocence of any involvement in the genocide. In Kidaho commune, human rights field officers persuaded the Bourgmestre to provide better detention facilities for a woman and her child in the communal building.

#### Rwamagana

Please see Kibungo section.

#### 4. Security of human rights personnel

In the last three weeks, an increase in the incidence of armed robberies by men, mostly in military uniform, has been reported in connection with human rights personnel, Rwanda. The administration building of a contractor supplying logistic support for UNAMIR was the subject of armed robbery in which some US\$ 50,000 was stolen.

On one occasion, some human rights field officers were robbed at gunpoint by men in RPA uniform. One human rights field officer arrived home to find the house being ransacked. She was able to radio for help and the men were arrested by the UN Military Police and handed over to the Gendarmerie.

A second case was even more serious. A man in civilian clothes, driving a stolen UNAMIR vehicle, requested entry to a house in which a number of human rights officers live. The guard, having seen the UN vehicle, opened the gate, and then four or five armed men in RPA uniform appeared and forcibly entered into the house. They threatened to kill the three human rights field officers, in retaliation for UN reporting on RPA killings in Kibeho camp. They struck one human rights field officer with the barrel of a gun leaving very visible marks and significant bruising. They told one female human rights field officer that she had to leave with them, but she repeatedly refused and remained behind. They took two

HRFOR vehicles, hand held radios, computers and the luggage of one human rights field officer who was set to go on leave. They also took the keys to two other vehicles but apparently did not have sufficient drivers to take those as well.

### C. Technical cooperation programme

A number of projects aimed at rehabilitating the justice system and the promotion of a culture of rights and tolerance in Rwanda have been initiated. The following projects are currently under implementation:

1. Advisory services in the administration of justice

A project aimed at providing advisory services in the administration of justice is already in the implementation phase. Six experts will be working for a period of six months with different departments within the Ministry of Justice, providing advisory services and on-the-job training to the relevant Rwandese legal personnel.

The project cost comes to US\$ 200,000, and is funded by the Voluntary Fund for Technical Cooperation in the Field of Human Rights. Recruitment of these experts was done in cooperation with United Nations Volunteers (UNVs). Two UNVs have already been deployed in Rwanda, the other four will soon join the Ministry of Justice.

2. Human rights seminars

The Technical Cooperation Unit has successfully organized two human rights seminars for women. Another seminar for government officials is being held this week.

3. Project in cooperation with the UNDP to provide 50 legal professionals

There is an urgent need to provide the necessary legal assistance to the Government of Rwanda in order to process the large number of detainees, which comes to 35,000 persons in various prisons and detention centres throughout the country. The experts will assist the Parquet in the preparation of case files. A project to provide up to 50 legal professionals for a period of at least six months in cooperation with the UNDP, has been prepared. The project aims also at providing training of local judicial personnel and some infrastructure support. While the process of selected candidates continues, the first group of selected candidates is being presented to the Minister of Justice, who will make the final decision. These professionals will be deployed throughout May, June and July 1995.

The project is estimated to cost more than US\$ 5 million.

Restructuring of the Technical Cooperation Unit of the  
Human Rights Field Operation In Rwanda (HRFOR)

The technical cooperation mandate of the HRFOR is becoming increasingly important. In March 1995 a comprehensive technical cooperation programme was developed, based on a systematic needs assessment survey which was conducted by staff of the Technical Cooperation Unit (TCU) of the HRFOR, who identified the assistance needs in rehabilitating the justice system and rebuilding civil society, particularly in the area of the administration of justice and human rights education. The Unit also proposed specific projects to address these needs and the necessary financial resources required.

The Chief of the Advisory Services and Technical Assistance Branch of the Centre for Human Rights visited Kigali at the end of April 1995 to help strengthen the activities of the HRFOR in the area of technical assistance. This led to a process of restructuring the Technical Cooperation Unit (TCU) and to focus its work on this area

This new focus of the work of the TCU in Kigali is reflected in the following key components in the technical assistance programme of the HRFOR.

1. Administration of Justice

**Advisory Services on Legislation and Policy Making:**

The Government is in the process of reviewing existing legislation and considering the passage of new bills. The TCU will provide the necessary technical assistance in the legislative drafting process in order to ensure that the new laws are compatible with international human rights standards.

**Project of 50 Legal Professionals:**

The scale and nature of this project requires significant backup support from the Technical Cooperation Unit. In this connection, a staff member will be responsible for all matters related to logistics. Another will be in charge of matters related to the substantive work of the 50 legal professionals and locally recruited staff as well as liaison with the Ministry of Justice and other organizations involved.

**Training of Lawyers and Judges:**

The recent tragic history has caused a severe lack of legal professionals in Rwanda. Some have left the country. Some have been killed. The remaining available lawyers include persons from a mixture of backgrounds: coming from the traditional Rwandese system; those trained and practised in the common law system; and those trained in the Napoleonic legal system. There is a real need to train these different groups of lawyers on the application of international norms and standards in the administration of justice. A training programme that responds to these needs is currently planned and will be carried out by staff of TCU.



## 2. Human Rights Education

### Human Rights Training to the Military:

The military has a critical role to play in the stability of the country. Building upon the experience gained from a recent initiative in Burundi, similar training in Rwanda is being organized following an initiative of the High Commissioner. An expert staff member from the Centre is now on mission in Rwanda to finalize the content of the programme and other arrangements with the military authorities. It is envisaged also that a staff member will be deployed to follow up an on-going programme of activities in this field.

### Human Rights Training to the Police:

UNAMIR is currently providing training to the gendarmerie on technical aspects of policing. Human rights training to the police is one of the most developed programme components of the technical cooperation programme in the Centre for Human Rights. Training needs are being assessed, which will result in an ongoing programme in this area.

### Human Rights Education and Civil Society:

The genocide has damaged the social, psychological, and cultural fabric of the society. The building of a culture of human rights, peace, and tolerance will require massive efforts. On-going activities are planned in this area, including the use of the mass media (for example national radio and television, Radio UNAMIR) for human rights promotion, support to NGOs, women and youth groups.

### Human Rights Education in the Formal Educational System:

To break away from the past legacy and to deal with the trauma caused by the genocide, education has a prime role to play in the process of national reconciliation. Human rights education programmes at the primary, secondary, and high education levels, have been planned and will be implemented in cooperation with relevant government ministries.

### Human Rights Training to Government Institutions:

Several activities are underway and are carried out in partnership with government ministries, particularly the Ministry of Interior, Ministry of Defense, and Ministry of Justice. The High Commissioner's objective is to assist the Government to build a human rights training capacity within each of the ministries and institutions so that the capacity of training on human rights will be sustained.

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HIGH COMMISSIONER FOR HUMAN RIGHTS



## THE HUMAN RIGHTS FIELD OPERATION IN RWANDA (HRFOR)

### I. INTRODUCTION

In the wake of the tragic events triggered on 6 April 1994, the United Nations has the daunting task of assisting the Rwandese people in their efforts to restore law and order to their shattered country and to foster national reconciliation. One of the most important steps taken by the United Nations to meet this challenge was the creation of the Human Rights Field Operation in Rwanda (HRFOR), established pursuant to resolution S-3/1 which the United Nations Commission on Human Rights adopted on 25 May 1994, resolution 935 which the Security Council adopted on 1 July 1994 creating a Commission of Experts on Rwanda and the mandate of the High Commissioner for Human Rights as contained in General Assembly resolution 48/141.

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The HRFOR has carried out extensive investigations of genocide and other major violations of human rights and humanitarian law. It has achieved much in establishing a comprehensive presence of human rights field officers throughout the country, thereby helping to create a climate of confidence and to lay the groundwork for national reconciliation. It has further initiated a broad based program of promotional activities in the field of human rights, ranging from technical cooperation projects for the rebuilding of the Rwandese administration of justice to human rights education at all levels. So far some 130 human rights personnel have been deployed, including experts on investigations such as prosecutors, criminal investigators and forensic doctors, as well as specialists for technical cooperation projects and human rights education.

The purpose of this paper is to highlight achievements as well as constraints of the Human Rights Field Operation in Rwanda. It will also be useful as a response to criticisms of the Operation, which have sometimes been based on misperceptions of the Operation's mandate and functions. In this regard, it must be appreciated that there have been serious difficulties in developing the operation. Four factors have contributed to these difficulties. First, there have been tremendous logistical constraints primarily due to the fact that the infrastructure in Rwanda was almost completely destroyed. Second, while the international community required the immediate establishment of a fully operational United Nations mission in Rwanda, sufficient resources did not become available promptly. Third, this is the first operation to be fielded by an entity of the UN Secretariat that has hitherto not been engaged in operational activities. Fourth, the situation generated by the genocide and the armed conflict is of such a unique and complex character that experiences and methodologies employed in other large human rights field operations of the United Nations such as in El Salvador, Haiti or Cambodia were not entirely applicable or transferable to this situation.

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The efforts of the HRFOR have to be evaluated in this context. Against this background it is clear that the kind of criticisms such as those found in a report published by a recently founded NGO (African Rights) are tendentious and superficial. This notwithstanding, the High Commissioner welcomes constructive criticisms and these are being taken into account as the Operation is further developed.

In order to better understand what the High Commissioner has been trying to achieve, the following facts should be recalled. The HRFOR has been entrusted with an integrated mandate that provides the field operation with four objectives: (a) to carry out investigations into violations of human rights and humanitarian law; (b) to monitor the ongoing human rights situation and through its presence, prevent future human rights violations; (c) to cooperate with other international agencies in re-establishing confidence, and thus, to facilitate the return of refugees and displaced persons and the rebuilding of civic society; and (d) to implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice as well as of human rights education. The underlying philosophy of this mandate is based upon the premise that the optimal approach to be followed consists in realizing the above components. The following provides an account of the efforts to implement this integrated approach.

## II. INVESTIGATION OF GENOCIDE

An important part of the mandate of the HRFOR has been to carry out investigations into violations of human rights and humanitarian law, particularly the genocide. Since mid-September 1994, a special unit of the HRFOR named "Special Investigations Unit" (SIU), and recently renamed LACU (Legal Analysis and Coordination Unit), has carried out numerous investigations and gathered basic information on the genocide. In order to carry out investigations in the most professional manner possible, the High Commissioner has requested Governments to make available specialised personnel (prosecutors, criminal investigators, police and forensic experts). Norway, Spain, Switzerland, The Netherlands and the United States have responded positively to this request thereby enabling the HRFOR to investigate the genocide and to collate pertinent evidentiary materials thereupon. The human rights field officers deployed throughout Rwanda continue to provide assistance in these investigations.

It should be understood that the genocide investigation must be done professionally and with the utmost care, always appreciating the need to maintain confidentiality and the integrity of evidence. The High Commissioner has taken full account of the experience gained in the work of the International Tribunal for the Former Yugoslavia, also preceded by the creation of a Commission of Experts. The High Commissioner considers it crucial to ensure that any investigative work on the genocide shall be carried out by those with the necessary expertise. This consideration became all the more imperative with the creation of the International Tribunal by the Security Council on 8 November 1994. Thus, the Special Investigations Unit, staffed by experts contributed to the HRFOR by a number of Governments, took primary responsibility to carry out these kinds of investigations. However, human rights field officers were never excluded from investigations on genocide. Indeed, human rights field officers have been involved in and have assisted at, many stages of the investigative process, working under the guidance of the expert investigators. In a number of field teams, at least one of the team members is charged with the specific responsibility to assist genocide investigations.

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The HRFOR has carried out in-depth investigations into the April-July 1994 massacres in a number of locations such as at the following:

- Butare Prefecture: Karama, M'bazi, Nyumba, Nyakibanda;
- Cyangugu Prefecture: Shangi;
- Gitarama Prefecture: Ruhango;
- Kibungo Prefecture: Zaza, Nyarabuye;
- Kibuye Prefecture: Rwamatamu, Mubuga;
- Kigali Rurale Prefecture: Ntarama.

The respective reports and the evidence gathered at these sites were made available to the Special Rapporteur and to the International Tribunal for Rwanda (ITR). During his last visit to Rwanda in March 1995, the High Commissioner handed over to the Deputy Prosecutor of the International Tribunal a large collection of evidentiary materials, which the Deputy Prosecutor qualified as 'most valuable' for the purposes of the prosecution effort.

It is to be noted that an important aspect of the work of the SIU/LACU consists in the coordination of information gathering by the human rights field officers. The field officers deployed throughout Rwanda were requested to gather information in a systematic manner to be transferred to the Special Rapporteur and to the Office of the Prosecutor. In this way evidence could be gathered in a standardized manner on a prefecture-by-prefecture basis. The HRFOR will continue to make this evidence available to the Special Rapporteur and to the ITR.

The central thesis of the African Rights report referred to above is that the HRFOR has ignored the genocide. Indeed, the authors write that "the prime human rights activity of the UN, with its massive resources, consists of protecting alleged killers." This outrageous assertion, which in no way reflects the reality of HRFOR action, must be utterly rejected. It is demonstrably false that the Operation has ignored the genocide.

The authors totally ignore the reports of the Commission of Experts appointed to investigate the genocide.<sup>1</sup> They make only passing reference to the reports of the Special Rapporteur on the situation of human rights in Rwanda.<sup>2</sup> These reports strongly condemn the genocide that was committed in Rwanda and called for the perpetrators to be brought to justice. It is to be noted that the HRFOR provided an important and substantive groundwork upon which these conclusions were based. Even more significant is the fact that the recommendation of the Commission of Experts to create an international criminal court was made in the light of the findings of the HRFOR on genocide and other violations.

One of the most egregious examples of the many inconsistencies contained in the African Rights report is that on the one hand, it criticizes the field officers for not doing

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<sup>1</sup> S/1994/1125 dated 4 Oct. 1994 and S/1994/1405 dated 9 Dec. 1994.

<sup>2</sup> E/CN.4/1995/7 dated 28 June 1994; E/CN.4/1995/70 dated 11 Nov. 1994; and, E/CN.4/1995/71 dated 17 Jan. 1995.

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more to investigate the genocide and on the other, acknowledges that the investigations must be conducted by experts. In many instances, this work requires technical expertise. To minimize tainting the evidence, which could in turn jeopardize the future prosecution of those responsible for the genocide, field officers need expert guidance.

Oddly, the authors disparage the forms to be filled out by the field officers to identify the sites of mass graves, claiming that to provide this information is a waste of time and resources. It is self-evident that investigations of the massacres can only be conducted if the sites are first located and identified. It is also self-evident that the field officers are best placed to identify these sites and thereby to expedite the investigations into genocide. Similarly, it should be quite obvious why field officers were asked to draw rough maps indicating massacre sites. The authors appear to believe that the investigation of genocide should be the primary focus of the Operation, yet they are critical of instructions to field officers that are intended to expedite this process. Furthermore, it can hardly be asserted, as the authors have, that the material gathered by the HRFOR "will have little relevance to the cases to be taken up by the International Tribunal", or for that matter, the Rwandan national prosecutions. To the contrary, this information is likely to be of vital importance in proving that the crime of genocide was committed and will help to bring indictments. In a recent agreement between the Special Rapporteur and the Prosecutor of the International Tribunal for Rwanda, the latter specifically emphasized the value of continuing HRFOR investigations into the genocide, on the understanding they would be closely coordinated with the Prosecutor's Office.

There is validity to the point that the investigative process and prosecution of those guilty of this heinous crime must be expedited. It is quite understandable that there is frustration considering that the perpetrators have yet to be punished. Given the magnitude of the investigations required to prepare prosecutions on the genocide, it would be unreasonable to expect fast and easy solutions. However, the international community must spare no effort to lend its full support to the International Tribunal for Rwanda, which is in charge of expediting this process.

### III. MONITORING OF THE CURRENT SITUATION AND CONFIDENCE BUILDING

In order to implement the different components of the mandate of the HRFOR, teams of field officers have been deployed throughout the country. One of their tasks consists in monitoring the ongoing human rights situation at the prefectural, communal and sectoral levels and to bring to the attention of the local authorities abuses or shortcomings that they observe. Specifically, they observe and report on: progress towards national reconciliation; the functioning of the administration of justice in all its aspects; issues relating to the return of refugees and internally displaced persons, including security conditions; availability of housing and basic goods and services; and on administrative practices. They are also involved in a series of confidence building measures such as conflict resolution at the local level, participation in citizens committees of various types and the dissemination of programmes of human rights information and education to local Rwandese officials and to the population at large. They regularly report on these activities to the headquarters of HRFOR in Kigali, which forwards the information to the High Commissioner for Human Rights, who in turn channels it as appropriate to the Secretary-General, the Special Rapporteur, the International Tribunal for Rwanda, Government delegations, as well as concerned international organizations.

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Currently, the HRFOR has 11 field offices: 9 as prefectural headquarters (Butare, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali and Ruhengeri) and two additional offices in the southeast (Rwamagana and Rilima). To the extent that appropriate accommodations could be found, offices easily accessible to the local population have been established.

Although the authors of the African Rights report concur with the need for a mandate that integrates the components discussed above, their criticisms indicate that they would prefer that the HRFOR in fact concentrate on the genocide investigation and on technical cooperation programmes. The authors provide numerous anecdotes to try to demonstrate that the field officers routinely make unsubstantiated allegations against the current Government and, in particular, against the RPA. Due to the report's reliance on anonymous sources, it is impossible to refute each and every story. However, the major distortions and falsehoods cannot go unanswered. Furthermore, it is also important to note that at no point did the authors make any attempt to interview the Chief of the HRFOR, or individual field officers criticized, to hear their side of the story.

A good example of the distortions presented in the report is found in the story related on page 24 of the report dealing with "UN protection of alleged killers" in which the authors assert that Mr. Clarence ignored a field officer's request for advice regarding the case of persons seeking protection in the office of the HRFOR in Gitarama. What in fact happened was that the telephone line on which they were talking, was cut and could not be reconnected in the following few minutes. Rather than delay further, in such urgent circumstances, Mr. Clarence immediately went to the Ministry of Interior with whom he had developed procedures for dealing with such situations. Within minutes he was with the Minister who telephoned directly to the Prefect concerned, instructing him not to interfere with the refuge seekers until the HRFOR had completed the interviewing and verification procedures. As a result, the field officer team was permitted to complete the interview and ultimately, the displaced persons were able to return to their home areas without being subjected to harassment.

It is equally incorrect that senior staff of the HRFOR, notably Mr. Clarence, have failed to establish a good working relationship with the Government. On the contrary, the leadership has established close relationships with all relevant Government Ministers. It may be mentioned as an example, that during the recent crisis following the forcible closure of the IDP camp in the southwest, the Minister of the Interior made himself personally available to the HRFOR on a 24-hour basis. Also, at the prefectural level, the HRFOR teams have developed good working relationships with the local authorities. In Kibungo prefecture for instance, a seminar on human rights prepared by the Rwamagana (HRFOR team), attracted over 100 local officials.

The importance of the human rights field officers' monitoring of the current situation was indeed demonstrated during the tragic events that followed the forcible closure of IDP camps in the southwest. The HRFOR established an emergency coordination structure and increased its team in Butare three-fold to a strength of 24 field officers, whose efforts contributed substantially to the re-establishment of stability and calm to the area.

The authors are quite critical of the HRFOR's monitoring of arbitrary arrests and detention. Yet, they concede that the written evidence against many of the detainees is poor, but they dismiss this concern by stating that this simply reflects the lack of human



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and financial resources necessary on the part of the Government. However, the HRFOR would be remiss not to investigate allegations it receives that an individual has been arbitrarily detained. It is a fact that no defined, clear, precise and transparent procedure of arrest has been followed in many of these cases and they have not conformed with the Rwandese penal code or with international conventions.

It should be noted that the usage of the term 'arbitrary' is in conformity with international human rights standards, as contained in international human rights instruments, in particular the Covenant on Civil and Political Rights to which Rwanda is a party, and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. All applicable provisions are reflected in the criteria applied by the Working Group on Arbitrary Detention of the Commission of Human Rights.

The authors also claim that the field officers have dealt with property disputes in a biased manner, placing too much emphasis on the property rights of refugees and internally displaced persons and neglecting the housing needs of the victims of genocide. In fact, the issue of property rights is highly complex. Contrary to what the authors claim, the HRFOR has not yet concretely addressed the issue, because of the lack of resources. The High Commissioner had proposed at the Roundtable Conference organized by UNDP in January 1995, that a technical cooperation project should be developed aimed at establishing a civil dispute resolution mechanism that can resolve these problems.

The claim that the HRFOR leadership has demonstrated an anti-RPA bias is utterly false and must be strongly rejected. This charge is malicious and clearly designed to undermine the leadership's credibility. In particular, the allegation that Mr. Clarence, openly told colleagues that the HRFOR is planning to issue what will be the second Gersony report must be vehemently denied. Similarly, it is false to claim that it is taboo for field officers to talk with the RPA. To the contrary, the HRFOR has made every effort to strengthen relations with the RPA. Last month, the HRFOR initiated and held a retreat which was attended by field officers and officers of the RPA to define common ground and generally discuss areas of mutual concern. A second retreat will be conducted near the end of May. Currently, a military training program for the armed forces in international human rights and humanitarian law is being discussed with the Government.

This is not to deny that sometimes there have been misunderstandings with the Government and the RPA. However, the point is that they are being addressed and will continue to be addressed in the framework of an ongoing dialogue with all authorities concerned.

The authors of the African Rights report claim that monitoring of the current situation reflects an anti-RPA bias on the part of the HRFOR. They try to marshal anonymous quotes from field officers demonstrating this alleged bias, but their methodology makes their so-called findings unverifiable and unfalsifiable. The authors also seem to have interviewed only those persons who were disgruntled or frustrated and did not seek the views of the many others, including first and foremost, the Chief of the Operation.

As noted above, the authors' own bias is quite transparent. This is perhaps best seen in their distorted description of the Mutsinzi case. They report that a journalist with the newspaper Le Messenger was "beaten up" in a bar in Kigali. To describe this vicious attack as an ordinary bar room brawl is outrageous, given the true facts. Individuals, one

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of whom wielded an axe-like weapon, critically injuring him; the blow to the head that he suffered may lead to permanent brain damage. It is irrelevant whether the victim was alleged to have written libellous articles. This was a heinous crime that called for investigation.

To put this in proper perspective, one must realize that there are a large number of incidents occurring in Rwanda every day. It is impossible to investigate each and every single incident, but it is the responsibility of the HRFOR, in light of its agreement with the Government of Rwanda, to investigate cases involving serious violations of human rights. In the same vein, the HRFOR has given full attention to, and in cooperation with the authorities, continues to investigate the assassination of the Prefect of Butare, which was perpetrated after the Mutsinzi case.

Field officers throughout the country investigate human rights violations regardless of the identity of the perpetrator or perpetrators. For instance, field officers have been investigating violent incidents related to incursions into Rwanda from neighbouring Zaire from people believed to be members of Interahamwe. Dozens of Rwandese persons have been killed in these attacks.

In conclusion, reporting on current human rights violations is an essential part of the HRFOR's functions. While it is true that the scale of these human rights violations is dwarfed by the genocide, it does not follow that the HRFOR can or should turn a blind eye to the current situation. Indeed, the Government itself fully recognizes that a climate of confidence cannot be fostered without respect for human rights.

#### IV. TECHNICAL COOPERATION

The Programme of Technical Assistance in Human Rights for Rwanda forms an essential part of the HRFOR. The objectives of this programme are to help the Government re-establish the rule of law and to build the institutions necessary for the protection and promotion of human rights. Additionally, the programme is designed to help strengthen civic society and the role of Rwandese NGOs in human rights promotion. It also includes components of human rights education at all levels and the dissemination of human rights information to the population at large.

The following projects are currently being implemented:

1. Advisory services in the administration of justice

A project aimed at providing advisory services in the administration of justice is in the implementation phase. Six experts will work for a period of six months with different departments within the Ministry of Justice, providing advisory services and on-the-job training to the relevant Rwandese legal personnel.

2. Human rights seminars

The Technical Cooperation Unit has successfully organized human rights seminars for women. Following a human rights seminar conducted by the HRFOR for government officials, training programmes are being drawn up for each Ministry. Also, training



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programmes for local officials have been held in Cyangugu, Gisenyi and Kibungo prefectures.

3. Project in Cooperation with the UNDP to provide 50 legal professionals

There is an urgent need to provide the necessary legal assistance to the Government of Rwanda in order to process the cases of approximately 42,000 persons held in various prisons and detention centres throughout the country. The experts will assist the Parquet in the preparation of case files. A project to provide up to 50 legal professionals for a period of at least six months in cooperation with the UNDP has been prepared. The project aims also at providing training of local judicial personnel and some infrastructural support.

4. Advisory Services on Legislation and Policy Making

The Government is in the process of reviewing existing legislation and considering the passage of new bills. The Technical Cooperation Unit will provide the necessary technical assistance in the legislative drafting process to ensure that the new laws are compatible with international human rights standards.

5. Human Rights Training to the Military

The training of the military in international human rights and humanitarian law is of critical importance. A training course in this area is currently being organized along the lines as that earlier initiated by the High Commissioner in Burundi.

6. Human Rights Training to the Police

UNAMIR is currently providing training to the gendarmerie on technical aspects of policing. The HRFOR continues to work in conjunction with UNAMIR to train the police in human rights standards. Further training of the police on full implementation of international human rights standards in Rwandese police practises is planned.

7. Human Rights Education and Civic Society:

The genocide has damaged the social, psychological, and cultural fabric of the society. The building of a culture of human rights, peace, and tolerance will require massive efforts. Activities are planned in this area, including the use of the mass media (for example national radio and television, Radio UNAMIR) for human rights promotion, support to NGOs, women and youth groups.

8. Human Rights Education in the Formal Educational System

To break away from the past legacy of inter-ethnic violence, educational institutions will have to play a key role in the process of national reconciliation. Human rights education programmes at the primary, secondary, and higher education levels have been planned and will be implemented in cooperation with relevant Government ministries.

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## V. PROFESSIONAL STANDARDS

Despite the rapidity with which the Operation had to be established, great care was taken to recruit professionally qualified staff. However, the intense pressure from member States and the international community to respond as rapidly as possible given the magnitude of the violations committed, necessitated a decision to deploy monitors in an expedited manner. Right from the beginning, it was felt that the teams of human rights field officers to be deployed should not be made up exclusively of international human rights lawyers. For that reason, care was taken to select a cross-section of qualifications to ensure that the multi-disciplinary character of the challenges faced by the HRFOR would be successfully met. There are, therefore, lawyers, sociologists, historians, Africanologists, development specialists, teachers and those especially experienced in implementation of human rights standards in the field.

In the early stages of the Operation, the High Commissioner recognized the needed for comprehensive training for newly deployed human rights field officers. While it is true that, initially, human rights field officers did not receive comprehensive training before their deployment, this problem has been resolved. Since December 1994 human rights field officers have received comprehensive and extensive training on all aspects of the field operation.

This training includes lectures and seminars delivered in either Geneva or Brussels (depending on whether the field officers are recruited by the Centre for Human Rights or by the European Union) and is then followed up by six days of training in Kigali covering inter alia: the history, society, culture and legal system of Rwanda; the genocide, its history and effects on society; roots of the conflict; scope and mandate of the HRFOR; functions and responsibilities of the field officer; applicability of international human rights and humanitarian law to the situation in Rwanda, the role of the Special Rapporteur, the Commission of Experts and the International Tribunal for Rwanda; field technicalities; procedures for dealing with physical evidence and documentation of abuses; issues concerning refugees and internally displaced persons; issues concerning the monitoring of detainees; and transportation, communications and logistics.

The authors of the African Rights report claim on the one hand, that the deployment was done too hastily and on the other hand, that the deployment was 'too little too late'. This is another example of the inconsistencies found in the report. Also, despite strong criticisms for alleged lack of professional qualifications and experience, the report itself points out that many of the field officers had prior UN field experience in Haiti, South Africa or Cambodia. Others had previously been employed by other UN agencies and had received strong recommendations from responsible officials. Moreover, expert members of the Special Investigative Unit were sent by their own Governments to assist the operation. Therefore, their suitability for the mission could be determined on the basis of their employment history with the United Nations.

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## **Human Rights Field Operation in Rwanda**

**MEDIA RELEASE January 23, 1995**

### **HIGH COMMISSIONER FOR HUMAN RIGHTS FOCUSES ON HELPING IDPS AND REFUGEES RETURN HOME**

The High Commissioner for Human Rights Mr Ayala Lasso called on the international community at the Round-Table Conference in Geneva to make urgently needed funds available to assist in the establishment of an independent and impartial judicial system in Rwanda.

On January 18 the High Commissioner explained the importance of a functioning judicial system to assist in the homeward movement of internally displaced persons (IDPs) and the repatriation of the millions of refugees who are now in neighbouring countries.

The High Commissioner established a Human Rights Field Operation in Rwanda (HRFOR) in September 1994. The HRFOR, which now has more than 75 Human Rights Field Officers deployed throughout the country, has been working closely with Rwandan citizens, Rwandan civil and military authorities and UN agencies for the past months.

In November 1994, the HRFOR, in close consultation with the Minister of Justice, began the establishment of inter-ministerial working groups in prefectures around the country in order to identify the practical needs for the reestablishment of the Rwandan judicial system.

Human Rights Field Officers, a majority of whom are lawyers from more than 35 countries around the world, made lists of needs from prosecutors (in the prefectures where they have been appointed), investigators, judicial officers, sub-prefects for rehabilitation and police, which were integrated and submitted to the Rwandan Minister of Justice.

Human Rights Officers visit prisons in Rwanda, and a large number of communal detention centres, and interview detainees. One of the goals of these interviews has been to better understand arrest and interrogation procedures in different areas of the country.

The HRFOR believes that the establishment of an independent justice system will assist in the process of reconciliation which includes, as a matter of urgency, the movement of Rwandan citizens back to their homes.

Human Rights Field Officers working in the IDP camps have learned that many of the people living in these camps feel that they could be considered guilty of having taken part in the genocide that was perpetrated in Rwanda between April and July 1994, for the sole reason that they have not yet felt secure enough to go home.

Many fear that they will be "arbitrarily" judged and would more readily return to their home communes if they had confidence that a proper judicial system is processing individual cases in their prefectures.

"These people are in a very difficult position. They must know that there is a system in place which will ensure them that they have access to due process and will be considered innocent until proven guilty," said William Clarence, the Chief of the HRFOR in Kigali.

Another problem which the HRFOR and media organisations continue to highlight is the severe overcrowding in prisons.

"The only long-term solution to this problem is to support government efforts to expedite the processing and review of individual cases. Furthermore, Rwandans must see an independent process of justice in action. Those guilty of crimes must be sentenced and the government must be given a chance to demonstrate that it will respect legal principles," continued Mr Clarence.

The HRFOR is working in four specific areas in Rwanda.

Human Rights Field Officers have been legally documenting the genocide since September 1994. This work, before the establishment of the international tribunal, was crucial in order to guarantee that this crime against humanity would not be forgotten nor misrepresented.

Since the appointment of Mr Goldstone as the Prosecutor for the international Tribunal, the High Commissioner has placed at his disposal all the information that was collected since September. Mr Goldstone will continue gathering evidence for the Tribunal. Human Rights Field Officers have been instructed to gather general information about the genocide as historical documentation.

Human Rights Field Officers also work on documenting present human rights violations. The goal of this work is not to put together lists of violations, work which NGOs are presently doing. The HRFOR, working with the confidence of the Rwandan government, tries to find solutions to bring an end to such abuses and assist in this transition period. This process has succeeded in more than one region of the country.

The HRFOR is also working on building confidence between the citizens, the government and those nationals who have sought refuge outside of the country. Human Rights Field Officers, who

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**Human Rights Field Operation  
in Rwanda  
(HRFOR)**

**MEDIA RELEASE**

**February 3, 1995**

**Statement by the HRFOR Concerning Attack  
on Editor-in-Chief Edouard MUTSINZI**

The High Commissioner for Human Rights' Field Operation in Rwanda has expressed its deep concern about the January 29 attack on Edouard MUTSINZI, Editor of the weekly "Intumwa - Le Messenger". The HRFOR immediately undertook a preliminary inquiry into this attack.

"In the process of rebuilding confidence between the peoples and institutions of Rwanda a free press is essential," said Mr William Clarence, the Chief of the HRFOR. "The HRFOR is continuing its inquiry into this case and plans to meet with Rwandan authorities next week to see what steps can be taken to help the government to start an investigation into this case and safeguard the rights of media workers throughout this country," he concluded.

The HRFOR was established in September 1994 under the auspices of the High Commissioner for Human Rights at the invitation of the Rwandan government. It is the first field operation that the High Commissioner has deployed and presently is comprised of more than 80 Field Officers who are posted throughout Rwanda. The Operation will continue to expand in the coming months.

For further information contact the Information/Press Officer Lee Woodyear in Kigali at 72.892 or 72.939.

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Human Rights Field Operation  
in Rwanda  
(HRFOR)

## OVERVIEW

The Human Rights Field Operation in Rwanda (HRFOR) of the United Nations High Commissioner for Human Rights (UNHCHR) is part of the overall effort of international, regional and non-governmental organisations, to assist Rwandan citizens to reunite and rebuild their country both morally and physically.

It is the first operation of its kind. The position of the High Commissioner for Human Rights was established following the World Conference on Human Rights that took place in Vienna in June 1993. In April 1994, Mr Ayala Lasso, a distinguished diplomat who played a leading role in campaigning for human rights in his own country of Ecuador, took up the post of High Commissioner by appointment of the Secretary General.

As a matter of urgency, in early May 1994 the High Commissioner visited Rwanda and reported his findings to the international community. Following this visit, and in cooperation with the UN Centre for Human Rights in Geneva, the Commission on Human Rights, the Organisation of African Unity, and with the support of the Secretary General, the High Commissioner began the establishment of a Human Rights Field Operation in Rwanda (HRFOR).

Pursuant to the Commission on Human Rights resolution S-3/1 which requested the appointment of a Special Rapporteur to investigate "at first hand the human rights situation in Rwanda and to receive relevant credible information on the human rights situation there, [...] including on root causes and responsibilities for recent atrocities" and requested the High Commissioner to assist the Special Rapporteur and "to ensure that future efforts of the United Nations aimed at conflict resolution and peace-building in Rwanda are accompanied by a strong human rights component...", Mr Lasso made an international appeal for support of the HRFOR.

In June 1994 the High Commissioner deployed three Human Rights Field Officers (HRFOs) as a preliminary measure prior to the establishment of the Operation.

On July 1 the Security Council requested the Secretary General to establish a Commission of Experts to investigate grave violations of humanitarian law and



"possible acts of genocide". The High Commissioner for Human Rights was also asked to assist this Commission.

In August, following his second visit to Rwanda, the High Commissioner reached an agreement with the Rwandan government for the deployment of 147 HRFOs. They were accorded the right of access to all areas of the country, including prisons and detention centres, the right to speak privately with all Rwandan residents and it was understood by the Rwandan government that their reports on their findings to the High Commissioner would be confidential.

In September 1994 the headquarters of the HRFOR was established in Kigali and the deployment of HRFOs throughout Rwanda began.

The High Commissioner, in the context of the mandates of the Special Rapporteur and the Commission of Experts, defined four objectives for the Operation. They are: 1) to carry out investigations into violations of human rights and humanitarian law; 2) to monitor the ongoing human rights situation and, through its presence, prevent future human rights violations; 3) to cooperate with other international agencies in re-establishing confidence, and thus facilitate the return of refugees and displaced persons and the rebuilding of civil society; and 4) to implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

By January 1995 there were more than 75 HRFOs working in nine of the 11 prefectures of Rwanda. In addition to these teams, the field operation includes a team of HRFOs assigned to prisons and other government institutions, a team assigned to technical assistance for the judicial system (Technical Cooperation Unit), and a team of professional investigators who worked to legally document the genocide before the international tribunal was established and are now working in the Legal Analysis and Coordination Unit.

In the coming months the Field Operation will continue to expand and field offices will be established in all prefectures. The next, and most important step, for Rwanda and this region of Africa, is the return of the millions of displaced persons and refugees to their home communes. The HRFOR will continue to work closely with other organisations and UN agencies to create conditions that will facilitate this movement of people (see info sheet Operation Retour).

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Human Rights Field Operation  
in Rwanda  
(HRFOR)

## GENOCIDE INVESTIGATION

One of the goals of the High Commissioner for Human Rights in establishing his first Human Rights Field Operation (HRFOR) in September 1994 was to document the genocide which took place in Rwanda between April and July 1994.

The third genocide of the 20th century needed to be fully documented and understood by the entire world in order that it would not be forgotten nor repeated. Further, it was essential that those who had perpetrated this heinous crime against humanity could not be allowed to go unpunished.

The High Commissioner called on governments around the world to help in this process of documentation. Many governments heeded his call. In September of 1994 the Finnish, Swiss and United States' governments sent investigative teams and experts to Rwanda in the context of the Human Rights Field Operation. The High Commissioner's field officers supported these teams and travelled widely throughout Rwanda documenting mass grave sites and taking testimony from eyewitnesses.

The HRFOR assisted the Commission of Experts, which was established in July 1994 by the Secretary General pursuant to Security Council Resolution 935, with their investigation "of grave violations of international humanitarian law". In its final report the Commission of Experts concluded that "there exists overwhelming evidence to prove that acts of genocide against the Tutsi group were perpetrated by Hutu elements in a concerted, planned, systematic and methodical way."

From the beginning, an on-going duty of all Human Rights Field Officers (HRFOs) in Rwanda was to identify massacre sites, mass graves and witnesses, and to record the general history of how the genocide was conducted in villages and communes around the country.

In September 1994 the High Commissioner designated five of his field officers, all lawyers, to work full-time in a Special Investigation Unit (SIU) which continued the work of documenting the genocide. In late October, the Spanish government sent an investigative team to Rwanda, which included forensic experts. They likewise worked closely with the SIU and HRFOs.

On November 8, 1994 the International Tribunal for Rwanda was established by the Security Council and soon after Mr Justice Richard Goldstone was appointed as its Prosecutor. The High Commissioner for Human Rights put at Justice Goldstone's disposal all of the information that had been gathered by the HRFOR.

In the same month, the High Commissioner developed a project to store all of the information that had been gathered about the genocide in a database. Investigative teams for the International Tribunal will have access to this database, and when the trial is finished, it can be used by Rwandan citizens, historians and scholars who want to learn more about this crime against humanity.

Since the appointment of Justice Goldstone, the High Commissioner has instructed his HRFOs to gather general information about the genocide as historical documentation as opposed to the legal documentation which was sought before the International Tribunal was established.

A further goal in documenting genocide has been to make it known to its survivors and all of the peoples of Rwanda that the international community does care about what happened in Rwanda between April and July 1994. HRFOs have spent hundreds of hours taking the stories from witnesses and going with witnesses to mass graves and massacre sites.

Though it is a minimal contribution, HRFOs have found that in many cases survivors of the genocide were relieved to share their experience with representatives from the United Nations so that what they had lived through would be known to the international community.

Ends

HRFOR/infodoc/feb95

UNITED



NATIONS

Human Rights Field Operation  
in Rwanda  
(HRFOR)

## OPERATION RETOUR

In the southwest of Rwanda are a number of camps which contain several hundred thousand "internally displaced persons" or IDPs. These camps are specifically located in GIKONGORO Prefecture, which was the Eastern most area contained by the so-called French protection zone established in June-July by "Opération Turquoise". The occupants of these camps are Rwandan nationals who fled before the advance of the Rwandan Patriotic Front in the final stages of the civil war which took place following the death of President Habyarimana on 6 April 1994.

The motives for fleeing were twofold. On the one hand the military conflict between the RPF and former Government forces directly jeopardized inhabitants' lives. On the other hand many people had participated in massacres and feared immediate reprisal killing by RPF soldiers. Such persons ordinarily fled together with their family members.

It is in the interest of both the present Rwandan Government and the international community that these IDPs return home. For the Rwandan Government the existence within the boundaries of Rwanda of large concentrations of people, among whom are a number of active sympathizers with the former Government forces, poses a security risk. Furthermore, the economic re-development of the country requires an economically active population in their homes going about their business. For the international community the expense of maintaining and caring for hundreds of thousands of people in camps cannot be supported long-term.

The re-establishment of normal life in Rwanda directly contributes to reconciliation and stability in the country and in the region. These are pre-requisites for the establishment of the rule of law and protection of human rights. For this reason the High Commissioner continues to actively support the return of IDPs to their homes, and ultimately the return of refugees to the country.

A large number of IDPs are reluctant to return home for the reason that they fear for their security in their home areas. Numerous rumours circulate in the camps of individuals disappearing, being summarily executed or being arbitrarily arrested upon returning home. There is presently a lack of trust on the part of IDPs.

The Rwandan Government, together with UNAMIR, UNHCR, IOM, and UNREO has devised a plan called "Operation Retour" to transport IDPs from their camps in GIKONGORO to their homes in the prefectures of BUTARE, GITARAMA, KIGALI, and KIBUNGO. This Operation could be considered a "dress rehearsal" for the return of refugees from neighbouring countries to Rwanda. The organizers of Operation Retour have requested the HRFOR to assist in creating conditions to promote the return of these people.

In keeping with its mandate, the approach of the HRFOR is concentrated on finding general guarantees for individuals' security which can be implemented by Rwandan authorities in accordance with the rule of law. Such guarantees provide transparency for the Rwandan population as to what could happen to them and provide an opportunity for verification of procedural propriety by the HRFOR and other interested international agencies.

At present, the HRFOR has stressed that there needs to be a transparent arrest procedure which must be made known to the whole of the Rwandan population. One element of this procedure would be for the Rwandan authorities to inform the HRFOR and the ICRC of every arrest made in order to allow verification of correct application of procedures and the safety of detainees.

As a correlation, the HRFOR strongly supports the rehabilitation of an effective, impartial and independent judicial system to process the large numbers of individuals arrested and to provide an enduring guarantee for the rights of Rwandan citizens (see info sheet Technical Assistance Unit).

The HRFOR monitoring activities in this process include visiting persons who have returned and interviewing them about their perceptions and reasons for returning home at this time, as well as interviewing IDPs in the camps about their concerns, hesitations, and fears. By these interviews the Rwandan population sees that independent observers are taking an active interest in their wellbeing.

At the same time, the HRFOR makes a real and lasting contribution to the process of rehabilitation of Rwandan society by counter-acting the reasons which cause IDPs and refugees to fear a return to their homes and providing them with an incentive to follow their natural inclination to return to a normal life at home.

Ends

UNITED



NATIONS

Human Rights Field Operation  
in Rwanda  
**(HRFOR)**

**TECHNICAL COOPERATION UNIT**

The recent traumatic events in Rwanda during 1994 have very seriously undermined the pre-existing legal system. Ministry of Justice figures estimate that less than 20% of the trained legal professionals from the previous system are still available for service. This lack of trained legal personnel is exacerbated by widespread structural damage and by the fact that most materials needed for a functioning legal system were destroyed or stolen.

The High Commissioner for Human Rights considers the establishment of an independent and impartial judicial system to be an essential component in the process of rehabilitation and reconciliation in Rwanda. He has appointed Human Rights Field Officers (HRFOs) to work closely with the Minister of Justice for this work.

The rebuilding of the justice system and thereby the primacy of the rule of law is an intrinsic element for the maintenance of a just and humane society. The fundamental rights of Rwandan citizens can only be fully protected when such a system is in place and respected by Rwandan authorities and citizens.

In order to stop the cycle of violence in Rwanda, and to prevent individuals from taking the law into their own hands, Rwandan citizens must have access to, and be able to see, a fair and effective judicial system working in their country.

The sheer number of pending and potential criminal cases related to genocide would greatly over-tax the system as it previously existed, not to mention what remains of it at present. Furthermore, given the number of homes destroyed and the current arrival of refugees who have not lived in the country for years, coupled with the return of the recent IDP and refugee population, the number of civil disputes may be expected to increase substantially.

In response to the Rwandan government's need for assistance to rehabilitate the justice infrastructure in November 1994 a joint mission of experts was organised under the auspices of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP). During its three-week stay in Rwanda

this mission worked with all ministries and Rwandan NGOs concerned with the issue of the administration of justice.

Following the release of the joint commission's report a working group on the rehabilitation of the justice system in Kigali was formed under the auspices of the High Commissioner's Field Operation in Rwanda and the UNDP office in Kigali. Similar groups were subsequently established by Human Rights Field Officers (HRFOs) in prefectures throughout the country.

The purpose of these working groups is to work with the Ministry of Justice to coordinate the international response and to establish an order of priority for addressing the actual needs in the country. HRFOs will continue to monitor and facilitate the re-development of the justice system on all levels, as well as the implementation of assistance programmes.

The Technical Cooperation Unit is also assessing the needs of Rwandan human rights NGOs and other institutions and ministries involved in the creation of a human rights culture in Rwanda. Financial assistance is sought for these organisations and an HRFO is available to help local organisations with their own project development.

In addition, the TCU is preparing human rights training programmes with the Ministries of Justice, Interior and Defence. These programmes, directed at officials and the general public, will support Rwandan authorities in establishing their own educational programmes.

Ends

HRFOR/infodoc/Feb95

## **HUMAN RIGHTS FIELD OPERATION IN RWANDA**

### **Operational Plan**

#### **I. CONTEXT AND GOAL OF THE FIELD OPERATION**

1. The Human Rights Field Operation in Rwanda (HRFOR) of the United Nations High Commissioner for Human Rights (UNHCHR) is part of the overall effort of international, regional and non-governmental organisations, as well as member States, to create conditions instilling confidence among Rwandese citizens, and in particular those most vulnerable elements of Rwandan society such as refugees and internally displaced persons, so that they eventually return to their country and homes to resume their lives in safety and dignity. The HRFOR cannot achieve this goal alone, but it can play an important role in enhancing security within the country and respect for the rule of law and basic human rights. The purpose of this Operational Plan is to explain the structure and function of the HRFOR.

#### **II. MANDATE AND CONCEPTUAL FRAMEWORK**

2. The HRFOR was put in place as a result of Commission on Human Rights resolution S-3/1 establishing the mandate of a Special Rapporteur, Security Council resolution 935 (1994) establishing a Commission of Experts, and the mandate of the High Commissioner for Human Rights as contained in General Assembly resolution 48/141. Within the terms of these parameters, and as defined in the Preliminary Operational Plan of 15 September 1994, the field operation continues to have four objectives: (a) to carry out investigations into violations of human rights and humanitarian law; (b) to monitor the ongoing human rights situation and, through its presence, prevent future human rights violations; (c) to cooperate with other international agencies in re-establishing confidence, and thus facilitate the return of refugees and displaced persons and the rebuilding of civic society; and (d) to implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

3. After having made two visits to Rwanda, the High Commissioner reached an agreement with the Government of Rwanda in August 1994 that a maximum of 147 human rights field officers - a number corresponding to the number of communes in Rwanda - could be deployed throughout the country. As funds for such a large operation were not available from the regular budget, the High Commissioner has thus far made two appeals to the international community for funds to establish broad-based human rights field activities in accordance with the four above-mentioned objectives. On the basis of these appeals, a total of US\$ 4,463,194 was pledged by various Member States and others organisations. As these funds had to be collected, a sum of US\$ 3,000,000 was advanced from the Central Emergency Revolving Fund (CERF) so that the field operation could begin. A summary of the contributions received to date as well as the budget contemplated for the first half of 1995 are contained in annexes I-II. This revised Operational Plan and budget have been established for a six-month period because the volatile situation in Rwanda requires a flexible approach and a field operation able to adapt to changing conditions and needs. It is contemplated that the HRFOR will continue in Rwanda well beyond six months, but its activities and, therefore, its budgetary requirements may have to be amended according to these needs and conditions.



its first 8 volunteers to join the HRFOR; another contingent is expected to be deployed in mid- to late-February. An agreement will soon be signed between the High Commissioner and the EU, and the first group of EU officers will be sent under the criteria and modalities of that agreement during the month of February. Two additional groups of EU-donated officers will join the HRFOR in March.

### III. IMPLEMENTATION OF THE OPERATION

#### A. Structure of the HRFOR

8. To ensure proper direction and implementation of the various objectives, William Clarence (United Kingdom), an experienced former representative of the United Nations High Commissioner for Refugees, was appointed Chief of the HRFOR in September 1994. The executive structure of the operation was strengthened by the appointment of Abderrazak Essaied (Tunisia), another experienced former UNHCR representative, as Deputy Chief of the HRFOR.

9. The HRFOR is directed from its headquarters in Kigali by the Chief, under the authority and direction of the High Commissioner for Human Rights. The Chief of the HRFOR: coordinates and implements policies for the operation; ensures the effective overall functioning of the entire operation through his supervision; represents the High Commissioner to the Government of Rwanda; coordinates the activities of the HRFOR with the Special Representative of the Secretary-General, other United Nations agencies, intergovernmental and non-governmental organisations; represents the HRFOR at meetings and with the press; plans the deployment of personnel and the necessary logistical and administrative arrangements for the implementation of the various objectives of the operation; reports to the High Commissioner on all activities of and developments concerning the HRFOR; and, in close cooperation with UNAMIR, provides for the security of the operation. The Deputy Chief is responsible for providing assistance to the Chief in all these matters; in particular he directs the work of the administrative cell that handles personnel, finance and procurement matters. The Deputy Chief is considered Acting Chief during the Chief's absence.

10. The contingent provided by the European Union will have a coordinator who will be fully integrated into the headquarters of the HRFOR. As described above, field officers are assigned to units and teams, each with an existing or soon-to-be appointed officer-in-charge and team leader. The substantive units at the headquarter's level in Kigali, through which the work of the HRFOR is carried out, are the Monitoring Unit (MU), the Legal Analysis and Coordination Unit (LACU) which replaces the former Special Investigations Unit (SIU), and the Technical Cooperation Unit (TCU). An organizational chart of the HRFOR is attached as annex III.

#### B. Operational tasks of the HRFOR

##### 1. Investigations

11. As the initial focus of the operation was on investigations, a Special Investigations Unit (SIU) was created in September 1994 to assist the respective mandates of the Special Rapporteur and the Commission of Experts. The Commission of Experts issued its final report on 30 November 1994, completing the responsibilities

15. Field officers participating in the HRFOR activities observe and report on:
- (a) Progress towards national reconciliation;
  - (b) The establishment of courts or magistrates to resolve disputes among Rwandese;
  - (c) The availability of housing and other facilities for those returning;
  - (d) Actions taken by local government authorities or the Rwandese Patriotic Army regarding returning Rwandese and relevant administrative practices;
  - (e) Security conditions which exist in their area;
  - (f) The availability of basic goods and services; and
  - (g) The development of programmes of education and dissemination of human rights information to Rwandese officials and the population at large.

### 3. Technical assistance activities

16. The confidence-building work of field officers will have to be supplemented by efforts to establish the fair administration of justice in Rwanda. At present, as many as 15,000 people have been jailed for various alleged crimes and violations of human rights in the central jail as well as in regional detention centres. In addition, Rwandese who do return to their villages and homes have no dispute-resolution mechanisms to secure their property and no civil police to enforce the authority of law and to keep the peace. Creating stability in Rwanda or, in the words of the Special Representative of the Secretary-General, to "restore the ship of State," will require the rapid creation of some dispute-resolution and enforcement mechanisms.

17. This effort will require the provision of technical assistance to the new Government to re-establish the rule of law and build new institutions for the promotion and protection of human rights. Helping to build this new infrastructure will allow the Government to break with the legacy of the past and to create new mechanisms for institutional and long-term human rights protection. In addition, the technical assistance programme for Rwanda will be designed to help strengthen civic society and the role of NGOs in promoting human rights.

18. To establish this technical assistance programme, the HRFOR, through its specialized Technical Cooperation Unit (TCU), will be undertaking the following:

- (a) Short term:
  - (i) Recruitment and deployment of legal experts to review, in close cooperation with the Rwandese judiciary, the dossiers of detainees so that either charges can be filed or prisoners can be released as appropriate;

B. Financial and material requirements

20. Implementation of the full operational plan of the HRFOR - 10 to 15 field offices, 147 field officers, a legal analysis and coordination unit, and a technical cooperation unit - will depend upon the ability to secure the necessary personnel and material resources. For the period from February through June 1995, some US\$ 6,5 million will be required. This amount will be spent as described in annex II. In addition, an amount of US\$ 4,836 million will be required to implement the short-term technical assistance programme.

21. Contributions should be transferred to: Société de Banque Suisse, Account UN Geneva General Funds CO; 590,160.1, Case postale 2770; 1211 Geneva 2, indicating that the money is destined for the Human Rights Field Operation in Rwanda.

V. CONCLUSION

22. The HRFOR was created very soon after the establishment of the Office of the High Commissioner for Human Rights. It is the first field operation that has ever been undertaken by the Office as well as the first large-scale United Nations humanitarian mission to be deployed on such short notice. It remains a test of the will and capacity of the international community to react quickly to grave human rights situations. It also tests the concept of a High Commissioner's Office responsible for coordination of such international efforts. In a relatively short period of time and without previous comparable experience, the Office has deployed nearly 100 human rights field officers throughout a country where lack of logistical and infrastructural support has proved to be a major obstacle. These officers have begun to make a contribution to the creation of confidence and stability that will be necessary before Rwanda can hope to return to normal life. The international community's attention, concern and support for this operation will undoubtedly prove to be most critical in the next six months to enable full rehabilitation and recovery in Rwanda.

**HUMAN RIGHTS FIELD OPERATION IN RWANDA**  
Operational Plan  
ANNEX II

COST PLAN UNTIL JUNE 1995

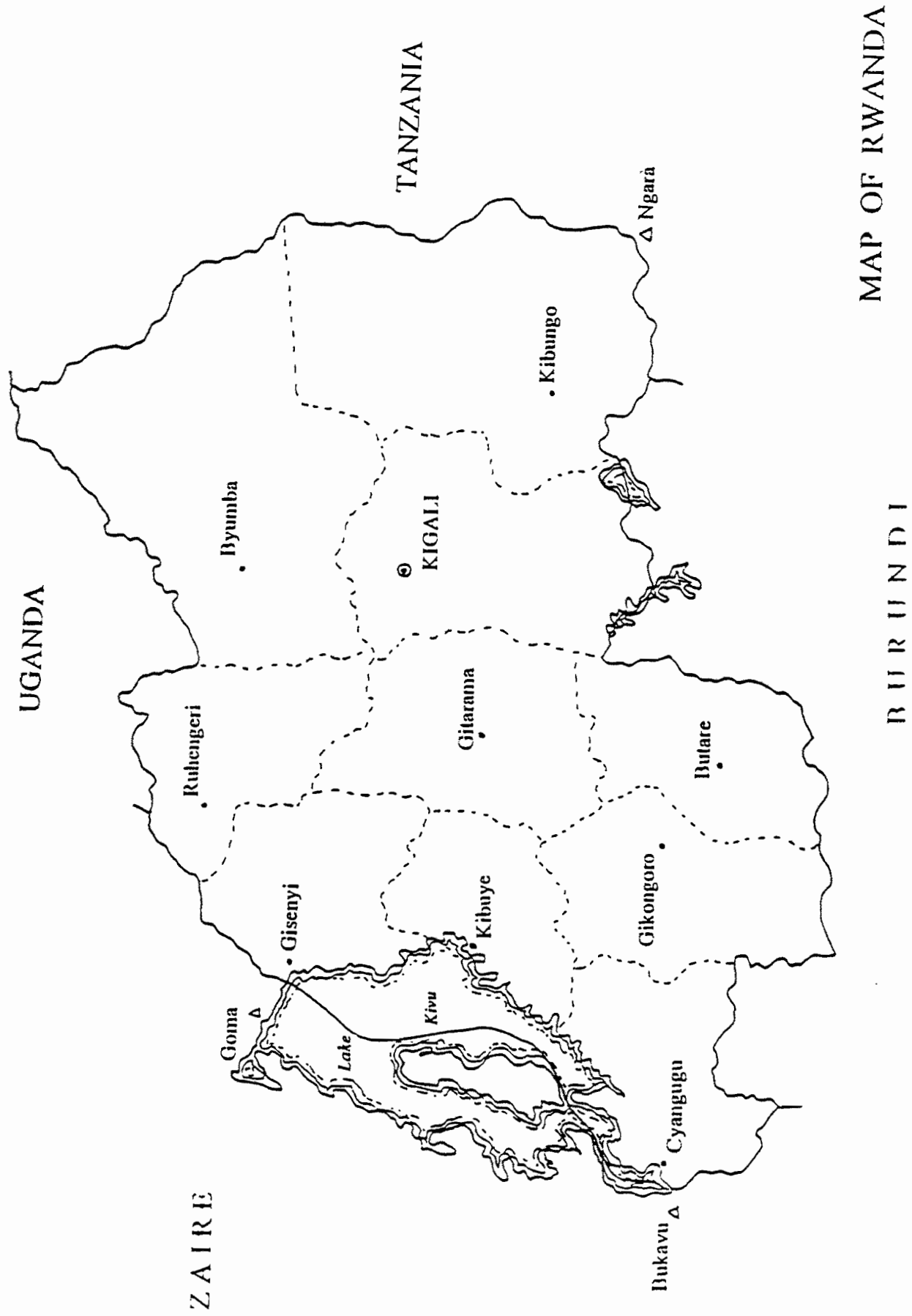
(in thousands of US\$)

Heading	until January 95	February-June 95	Total Sept 94-June 1995
<b>A- Staff Costs</b>			
i) Salaries	1,030.2	2,494.5	3,524.7
ii) Travel expenses	1,133.9	1,333.7	2,467.6
<b>Total staff costs</b>	<b>2,164.1</b>	<b>3,828.2</b>	<b>5,992.3</b>
<b>B- Operational costs</b>			
i) General Operating expenses	243.3	579.5	822.8
ii) Supplies and materials	128.3	125.0	253.3
iii) Acquisition of furniture & equipment	952.5	1,198.5	2,151.0
<b>Total Operational costs</b>	<b>1,324.1</b>	<b>1,903.0</b>	<b>3,227.1</b>
<b>SUB-TOTAL</b>	<b>3,488.2</b>	<b>5,731.2</b>	<b>9,219.4</b>
Programme support costs (13 per cent)	453.5	745.0	1,198.5
<b>GRAND TOTAL</b>	<b>3,941.7</b>	<b>6,476.2<sup>1</sup></b>	<b>10,417.9</b>

<sup>1</sup> This amount does not include the High Commissioner's request for funds (US\$ 4,836 million) for a programme of technical assistance for the administration of justice.

HUMAN RIGHTS FIELD OPERATION IN RWANDA  
Operational Plan  
ANNEX IV

MAP OF RWANDA





**UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**PROGRAMME OF TECHNICAL ASSISTANCE  
IN HUMAN RIGHTS FOR RWANDA**

**(SHORT-TERM ADMINISTRATION OF JUSTICE PROPOSALS)**

**ROUND TABLE CONFERENCE**

**18 - 19 JANUARY 1995  
GENEVA**

## I. EXECUTIVE SUMMARY

1. The country of Rwanda has been devastated by war and massive violations of human rights. As a result, both the physical institutions of Government as well as principles of human rights have been destroyed. In rebuilding civil society and in creating the atmosphere of stability in which Rwandese displaced persons and refugees will return to their country and homes, a special emphasis has to be given to establishing human rights principles in the framework of the administration of justice.

2. To provide this support, a programme of technical assistance to emphasize human rights in the administration of justice can be created. In order to achieve some immediate results and improvements, such a programme must consider and include provisions to address shorter-term, as well as longer-term, problems. Addressing these different but inter-related goals will provide the most assistance possible, in the shortest time, and with the most efficient use of resources.

3. The United Nations High Commissioner for Human Rights has established a human rights field operation in Rwanda. Together with the resources of the High Commissioner's Office in Geneva, this field operation can provide the structure and personnel to coordinate all human rights programmes in Rwanda, including those directed at technical assistance for the administration of justice. Using the coordination abilities of the High Commissioner's Office will ensure that important needs of Rwanda are not neglected.

4. The elements for a successful shorter-term programme include providing Rwanda with assistance to review and process the 15,000 or more cases of those being detained for human rights and other violations, to provide humane treatment to those being incarcerated while their cases are being reviewed, to implement mechanisms in which property and other civil disputes among Rwandese can be peacefully resolved, to train a civilian police force in human rights principles, and to provide human rights education material to the schools and mass media.

5. Longer-term projects would consist of the renovation and rehabilitation of judicial and law enforcement buildings and equipment, the establishment of training for attorneys and magistrates and other legal personnel, the revision of Rwandese law to conform with international human rights instruments, and the establishment of governmental and non-governmental institutions for the protection of human rights.

6. To accomplish the shorter-term objectives, both financial support and expert personnel will be required. A total of some US\$ 4.83 million and the recruitment of over fifty legal, police, and prison administration experts will be needed to establish an effective programme, which can in a relatively short time provide meaningful improvements in human rights protection.



law requires panels of three judges to hear many cases. This rule, along with the loss of personnel, makes it impossible for the Government of Rwanda to resolve its many judicial issues without substantial assistance from donor countries.

**B. Judicial buildings and equipment have been destroyed**

11. An additional problem is the lack of infra-structure and support for judicial and law enforcement personnel. Buildings, files, word processing equipment, furniture and other support facilities have been destroyed or damaged. Basic items, such as vehicles, typewriters and file cabinets, which every country's judiciary and police take for granted, do not exist. Electrical and communications systems have been disrupted. So, there are far fewer than needed people, places, and things to support the administration of justice.

**C. Prisons are overcrowded with cases which cannot be reviewed**

12. Without having any of its basic personnel or support needs being met, the Rwandese system of justice has to deal with over 15,000 people who have been jailed on various charges of human rights and other violations. The central jail in Kigali is approaching 6,000 inmates (it was built in 1930 to house 2,000); the Butare facility, built for 1,200, holds more than 3,000; the Gitarama prison, built for less than 1,000, now holds over 2,500; there are a dozen more regional jails and an unknown number of small facilities used by the Rwandese Patriotic Army (RPA) to house detainees.

13. The conditions in prisons cannot be described sufficiently. In Kigali, the lack of adequate food, hygiene, and sanitation create conditions in which a handful of people die in jail every day. Yet, the prison populations will continue to grow, without there being any process by which cases can be sorted out.

14. Evidence available against people being jailed varies greatly between those who have confessed involvement in massacres to those who are being held on the basis of speculative hearsay, sometime the word of a neighbour making an accusation for ulterior motives (i.e., to obtain that person's house or farm). No matter what the quality of evidence, very few cases or dossiers can be processed because of the lack of personnel, files, and other equipment.

**D. No mechanism to resolve property and other civil disputes exists**

15. In addition to the thousands and thousands of criminal dossiers which need to be processed are the thousands of civil claims (mostly property disputes) which also inhibit the return of Rwandese to their homes. In numbers which are difficult to substantiate, Rwandese who return are often finding their homes and farms occupied by their neighbours, by strangers, and even by refugees who fled Rwanda during wars now ten to fifteen years old. There is no current process for a returning Rwandese to make claim to his or her property. At present, the person

20. The activities described in this proposal, which will be coordinated by the Office of the High Commissioner for Human Rights, focus on the shorter-term solutions to rebuild civil society in Rwanda and to encourage the voluntary return of Rwandese to their country. It has the added benefit, however, of creating an infra-structure which will support longer-term programmes and efforts. In addition, as the Office will become the clearinghouse for technical assistance programmes, it can ensure that longer-term efforts use the personnel, facilities, and gains made by the shorter-term agenda.

21. As just one example of this programme coordination, in November 1994, the Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights decided to give immediate assistance to the Rwandese Ministry of Justice, while waiting for additional programmes to be implemented. This assistance, in the form of six experts for the Direction of Penitentiary Services, the Direction of Legislation and Administration, and the Division of Judicial Police, has been taken into account and incorporated into this programme.

22. General categories for technical assistance to Rwanda for the administration of justice can be placed in these shorter- and longer-term categories:

**(a) Shorter-term projects**

- (i) Review of criminal cases of those being detained;
- (ii) Improvements in prison administration;
- (iii) Establishment of civil dispute resolution mechanisms;
- (iv) Recruitment of and training for civilian police;
- (v) Support for supplementary dispute resolution mechanisms;
- (vi) Restoration of some infra-structure and equipment to support shorter-term projects;
- (vii) Introduction of human rights materials in the media and education programmes.

**(b) Longer-term projects**

- (i) Support for establishment of bar associations, human rights commission, and NGOs;
- (ii) Training and education for law enforcement, judiciary, and legal personnel;
- (iii) Restoration of primary, secondary, and post-graduate legal and human rights education;

26. The High Commissioner's HRFOR, working with staff in his office in Geneva (the Centre for Human Rights), established this structure, which provides an ideal means to provide technical assistance and to coordinate such efforts and programmes. Against a total goal of up to 147 human rights officers, there already are over 80 such officers working in the field operation. A special Technical Cooperation Unit has been created, staffed with individuals with United Nations, academic, NGO, and field experience in technical assistance programmes. This Unit coordinates with the Technical Cooperation Branch of the Centre for Human Rights in Geneva and with ten to fifteen human right field offices which have been or soon will be established in the various prefectures of Rwanda.

## **VI. A SHORT-TERM PROGRAMME OF ASSISTANCE FOR RWANDA**

27. There are seven separate needs to be addressed in any short term programme: (a) assistance to review criminal cases of those being detained; (b) improvements in prison administration; (c) creation of a system or resolve civil and property disputes; (d) implementation of police training; (e) establishment of supplementary dispute resolution mechanisms by local Rwandese authorities; (f) restoration of some infra-structure and equipment to support shorter-term projects; and (g) introduction of human rights materials in the media and education programmes.

28. This shorter-term programme can provide the structure to support the longer-term efforts described above. As some examples of this programme integration, the experts recruited for the shorter-term assignments may chose to stay to develop the longer-term training in each of their disciplines. The magistrates, judges, and other legal personnel recruited may become the advisors on the revision of Rwandese law. Any equipment and building restoration obviously will assist and make that much less the equipment and building restoration required for longer-term projects.

### **A. Processing charges against those being detained**

29. While it may be unrealistic to begin full trials or other adjudications of 15,000 or more people being incarcerated, it is not unrealistic to review the dossiers of and evidence against this many people in a short period. To do this, the following steps will be required, all to be undertaken by or with the Government of Rwanda:

- (a) The experts supported through the Voluntary Fund and the Technical Cooperation Unit of the HRFOR will help establish criteria for what constitutes "probable cause" or "reasonable cause" to believe that a person committed a punishable offense;
- (b) These same people will help create the files, forms, and tracking system to accommodate this criteria and to uniformly make charges against those for whom sufficient evidence exists;

- (b) Use of an existing Rwandese legal document or creation of a new certificate will be decided so that a tribunal can issue its ruling in a manner which will be recognized by local and other officials as the official decision of property ownership;
- (c) Fifteen to 20 magistrates/judges to make up panels of three with Rwandese magistrates to hear civil disputes will be recruited; and
- (d) Those recruited and the Rwandese counterparts will create a process, schedule, and location(s) for hearing cases.

**D. Create and train an interim civil police force**

32. An atmosphere of law and order (and stability) is hard to achieve without the establishment of some non-military police force. Such a force, in turn, also would be useful in assisting with the investigations of the cases of those being detained and to carry out the decisions rendered in property disputes. To accomplish this within the time frame, the proposal will include:

- (a) Use of the experts supported through the Voluntary Fund and the Technical Cooperation Unit of the HRFOR to work with the United Nations Assistance Mission in Rwanda (UNAMIR) in the current training programmes to establish a corps of civilian police;
- (b) Establishing a process for additional training of Rwandese officials to become police officers; and
- (c) Recruitment of five other experts in police training and deployment to assist in the creation of a core police force in each prefecture;
- (d) The provision of sufficient vehicles and other equipment to establish civil police patrols in each prefecture; and
- (e) The solicitation of salary contributions for such a civil police force.

**E. Establishment of supplementary dispute resolution mechanisms**

33. Rwandese society always has included local dispute resolution. Local mediation and conciliation, through the *gacaca* system should become part of the efforts for the administration of justice. This system relied on village "wise persons" to whom parties in a dispute deferred. This local mechanism cannot substitute for courts in the most serious criminal cases which exist. However, it might be able to supplement dispute resolution in civil and property disputes. One problem with this traditional system is that it relies on the confidence of the participants. As the divisions in the country have never been greater, that level of confidence may not exist sufficiently to allow *gacaca* to be used. Accordingly, the technical assistant experts in Rwanda should study the efficacy of the *gacaca* and other forms of mediation to contribute to an overall programme.

**PERSONNEL**

Recruitment of legal professionals for criminal case review (20)	-	US\$1,200,000
Recruitment of prison admin. experts (5)	-	US\$ 180,000
Recruitment of civil magistrates (20)	-	US\$1,200,000
Recruitment of police training experts (5)	-	US\$ 180,000

**SALARY SUPPORT**

Salary support for Ministry of Justice	-	US\$ 450,000
Salary support for Other Ministries	-	US\$ 250,000

**MATERIAL**

Prison and prisoner equipment and supplies	-	US\$ 75,000
Database equipment for prison registry	-	US\$ 10,000
Vehicles and maintenance	-	US\$ 400,000
Computer hardware and software	-	US\$ 31,000
Office equipment and files	-	US\$ 10,000
Training materials and publications	-	US\$ 25,000
Other publications and written materials	-	US\$ 25,000
Building and furniture renovation and costs	-	US\$ 690,000
Radio, education material production costs	-	US\$ 10,000

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TOTAL (excl. programme cost)	US\$4,836,000
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**AGREEMENT BETWEEN THE UNITED NATIONS AND THE GOVERNMENT OF RWANDA  
ON THE STATUS OF THE HUMAN RIGHTS MISSION IN RWANDA**

WHEREAS in its resolution 48/141 of 20 December 1993, the General Assembly decided that the High Commissioner for Human Rights will be the United Nations official with principle responsibility for United Nations human rights activities under the direction and authority of the Secretary-General;

WHEREAS in its resolution S-3/1 of 25 May 1994, the Commission on Human Rights requested the Chairman to appoint a Special Rapporteur to investigate at first-hand the human rights situation in Rwanda and to receive relevant, credible information on the human rights situation there, including on root causes and responsibilities for the recent atrocities;

WHEREAS in the same resolution, the Commission on Human Rights requested the Special Rapporteur to visit Rwanda and to report to the members of the Commission on Human Rights on the situation of human rights in the country, including his recommendations for bringing violations and abuses to an end and preventing future violations and abuses, and to gather and compile systematically information on possible violations of human rights and acts which may constitute breaches of international humanitarian law and crimes against humanity, including acts of genocide, in Rwanda and to make this information available to the Secretary-General;

WHEREAS in the same resolution, the Commission on Human Rights requested the High Commissioner for Human Rights to make the necessary arrangements for the Special Rapporteur to be assisted by a team of human rights field officers acting in close cooperation with UNAMIR and other UN agencies and programmes operating in Rwanda;

WHEREAS pursuant to Security Council resolution 935 (1994) of 1 July 1994, the Secretary-General established an impartial Commission of Experts to examine and analyze information submitted pursuant to that resolution, together with such further information as the Commission of Experts may obtain through its own investigations or the efforts of other persons or bodies, including the information made available by the Special Rapporteur for Rwanda, with a view to providing the Secretary-General with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including the evidence of possible acts of genocide;

WHEREAS the Secretary-General, in his report to the Security Council on 29 July 1994 (S/1994/879), stated that the Commission of Experts would be based in Geneva and would benefit from the resources of the High Commissioner for Human Rights and those made available to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Rwanda;

WHEREAS the High Commissioner for Human Rights subsequently called for an expanded field operation to be composed of as many as one hundred and forty-seven human rights field officers, excluding locally recruited personnel, so as to cover each of the communes of the country, as agreed with the Government of Rwanda;

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NOW THEREFORE, the United Nations and the Government of Rwanda have agreed as follows:

#### I. DEFINITIONS

1. For the purpose of the present Agreement the following definitions shall apply:
  - (a) "the Mission" means the human rights field operation conducted in Rwanda pursuant to General Assembly resolution 48/141 of 20 December 1993, the Commission on Human Rights resolution S-3/1 of 25 May 1994, and Security Council resolution 935 (1994) of 1 July 1994;
  - (b) "Premises" means the Office in Kigali and sub-Offices or other locations used by the Mission in Rwanda to conduct activities in accordance with the above-mentioned resolutions;
  - (c) "the Government" means the Government of the Republic of Rwanda;
  - (d) "the Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946;
  - (e) "Parties" means the United Nations and the Government of the Republic of Rwanda;
  - (f) "The Special Rapporteur" means the Special Rapporteur appointed by the Chairman of the Commission on Human Rights pursuant to Commission on Human Rights resolution S-3/1 of 25 May 1994;
  - (g) "The Commission of Experts" means the Commission of Experts established pursuant to Security Council resolution 935 (1994) of 1 July 1994;
  - (h) "The Chief of the Mission" means the official appointed to oversee the necessary logistical and administrative arrangements and to ensure coordination of the Mission;
  - (i) "Officials of the United Nations" include staff members of the United Nations employed under the Staff Regulations and Rules of the United Nations, and United Nations Volunteers, who for the purpose of this Agreement shall be assimilated to the officials of the United Nations, with the exception of the persons who are recruited locally and assigned to hourly rates as provided for in United Nations General Assembly resolution 76(1) of 7 December 1946;
  - (j) "Experts on mission" means individuals other than Officials of the United Nations, coming within the scope of Article VI of the Convention;



- (k) "Members of the Mission" means Officials of the United Nations, United Nations volunteers and experts on mission assigned to the Mission.

## II. PURPOSE OF THE AGREEMENT

2. The purpose of the Agreement is to regulate the status and activities of the Mission and its members while in Rwanda.

## III. APPLICATION OF THE PRESENT AGREEMENT

3. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by the Government or any privilege, immunity, facility or concession granted to the Mission or any member thereof apply throughout the entire territory of Rwanda and under any other jurisdiction of the Republic of Rwanda.

## IV. APPLICATION OF THE CONVENTION

4. The Mission, its members, property, funds and assets shall enjoy the privileges and immunities specified in the present Agreement as well as those provided for in the Convention, to which Rwanda is a Party.

## V. SCOPE OF ACTIVITIES

5. The Mission shall carry out activities related to the promotion and protection of human rights and the investigation of the human rights situation in Rwanda. These activities shall include:

- (a) To carry out investigations into violations of human rights and humanitarian law including possible acts of genocide, in accordance with directives given by the Special Rapporteur on the situation of human rights in Rwanda and the Commission of Experts established pursuant to Security Council resolution 935 (1994);
- (b) To monitor the ongoing human rights situation, and through their presence help redress existing problems and prevent possible human rights violations from occurring;
- (c) To cooperate with other international agencies in charge of re-establishing confidence and thus facilitate the return of refugees and displaced persons and the rebuilding of civic society;
- (d) To implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice; and
- (e) To report to the High Commissioner who will make the information available to the Special Rapporteur on the situation of human rights in Rwanda and the Commission of Experts established pursuant to Security Council resolution 935 (1994).

and receive correspondence either by courier or in sealed pouches, all of which shall be inviolable and not subject to censorship.

#### VII. STATUS OF THE MEMBERS OF THE MISSION

11. The Chief of the Mission shall have the status specified in Sections 19 and 27 of the Convention, provided that the privileges and immunities therein referred to shall be those accorded to diplomatic envoys by international law.

12. Officials of the United Nations assigned to serve with the Mission shall enjoy the privileges and immunities provided for under Articles V and VII of the Convention.

13. Experts on mission shall enjoy the privileges and immunities provided for under Article VI of the Convention.

14. Locally recruited personnel of the Mission shall enjoy the immunities concerning official acts and exemptions from taxation and national service obligations provided for in Sections 18 (a), (b) and (c) of the Convention.

15. All members of the Mission shall be exempt from taxation on the pay and emoluments received from the United Nations or from Governments which have made their services available to the Mission. They shall be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

16. All members of the Mission, including locally recruited personnel, shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after termination of the Mission or after any such members cease to be employed to serve the Mission.

17. Members of the Mission referred to in paragraphs 11, 12 and 13 may import and re-export, free of duty or other restrictions, personal effects including goods and equipment for personal consumption during their period of duty with the Mission.

#### VIII. ENTRY INTO, EXIT FROM AND MOVEMENT WITHIN RWANDA

18. The Mission shall enjoy unrestricted freedom of entry into and exit from Rwanda without delay or hindrance of its members, property, supplies, equipment, spare parts and means of transport, including exemptions from visa regulations.

19. The Mission and its members shall enjoy unrestricted freedom of movement throughout the territory of Rwanda. For this purpose, the Government shall facilitate transport, as necessary, particularly in restricted areas. Such freedom of movement shall include freedom of enquiry, in particular as regards:

- (a) Access to all prisons, detention centres and places of interrogation, without prior notification, including unrestricted access to all hospitals and medical facilities. Members of the Mission shall have the possibility to speak in private with any person detained or present in such places;
- (b) Direct contacts with central and local authorities in all branches of Government, including the armed forces;

## VI. STATUS OF THE MISSION

6. The Mission shall establish an Office in Kigali and such other sub-Offices in Rwanda as necessary for the purpose of discharging its activities in accordance with the present Agreement.

7. The Mission, its Office and sub-Offices, their property, funds and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case the United Nations has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

- (a) All premises used by the Mission shall be inviolable. The property and assets of the United Nations, the Mission, the Office, and sub-Offices wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action;
- (b) The appropriate local authorities shall not enter the premises to perform any official duties, except with the express consent of the Chief of the Mission and under conditions agreed to by him.

8. The archives of the Mission and the Office, and sub-Offices as well as in general all documents belonging to the Mission, its Office, and sub-Offices wherever located and by whomsoever held shall be inviolable.

9. The Mission, its assets, income and other property shall:

- (a) Be exempt from all direct taxes, value-added tax, fees, tolls or duties; it is understood, however, that the Mission will not claim exemption from taxes which are, in fact, no more than charges for public utility services, rendered by the Government or by a corporation under Government regulations, at a fixed rate according to the amount of services rendered and which can be specifically identified, described and itemized;
- (b) Be exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported for its official use; it is understood, however, that articles imported under such exemptions will not be sold in the country in which they were imported except under conditions agreed upon with the Government;
- (c) Be exempt from customs duties and prohibitions and restrictions on imports and exports in respect of their publications.

10. The Mission shall enjoy the facilities in respect to communications provided in Article III of the Convention. Accordingly, no censorship shall be applied to the official correspondence and other official communications of the Mission. Such immunity shall extend to printed matter, photographic and electronic data communications and other forms of communications. The Mission shall be entitled to use codes and to dispatch

- (c) Direct contacts with private individuals, representatives of non-governmental organizations, private institutions and the media;
- (d) Access to all documentary material relevant for the effective conduct of the Mission.

#### IX. FLAG, EMBLEM AND MARKINGS

20. The Mission may display the United Nations flag and/or emblem on its premises, official vehicles and otherwise as agreed upon between the Parties. Vehicles of the Mission shall carry a distinctive United Nations emblem or marking, which shall be notified to the Government.

#### X. IDENTIFICATION

21. The Government shall, at the request of the Chief of the Mission, issue to Members of the Mission appropriate identity documents, in both the French and Kinyarwandan languages, stating that as members of the United Nations Mission they enjoy privileges and immunities which include freedom of movement and enquiry.

22. Upon request of an authorized official of the Government, members of the Mission shall be required to present, but not to surrender, their identity document.

23. The Mission shall, upon termination of employment or reassignment of any of its members, ensure that all identity documents are returned promptly to the Government.

#### XI. GOVERNMENT GUARANTEES

24. The Government shall be responsible to provide to the Mission and its members necessary security throughout Rwanda and shall make appropriate security arrangements for the effective conduct of the activities of the Mission.

25. The Government undertakes to respect the status and responsibilities of the Mission and its members and shall not in any way hinder, threaten, punish or subject to legal process any person having or who has had contact with the Mission.

26. Wherever the present Agreement refers to the privileges, immunities and rights of the Mission and its members and to the facilities the Government undertakes to provide to the Mission and its members, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local authorities.

#### XII. SETTLEMENT OF DISPUTES

27. Any dispute between the Mission and the Government relating to the interpretation and application of the present Agreement, or any other supplemental agreement, which is not settled by negotiation or another agreed mode of settlement shall be submitted to arbitration at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the chairman. If within thirty (30) days of the request for arbitration either Party has not appointed an arbitrator, or if within fifteen (15) days of the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the

President of the International Court of Justice to appoint an arbitrator. The procedure for the arbitration shall be fixed by the arbitrators, and the expenses of the arbitration shall be borne by the Parties as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute.

#### XIII. LIAISON WITH THE GOVERNMENT

28. The Government will name liaison officers within the Ministry for Foreign Affairs, the Ministry of Interior, the Ministry of Defense and the Ministry of Justice to ensure communications with the Mission regarding all questions relating to its work.

29. The Chief of the Mission, or such persons designated by him, will liaise with those officers appointed by the Government of Rwanda within the above-mentioned Ministries.

#### XIV. SUPPLEMENTAL AGREEMENTS

30. The High Commissioner for Human Rights and the Government may conclude supplemental agreements to the present Agreement.

#### XV. GENERAL PROVISIONS

31. This Agreement shall enter into force upon signature.

32. This Agreement may be terminated in whole or in part by either Party upon written notice to the other Party and shall terminate 30 days after receipt of such notice.

Signature

Government of the Republic of Rwanda

Signature

High Commissioner for Human Rights  
José Ayala Lasso

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UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS  
FIELD OPERATION IN RWANDA



NATIONS UNIES  
HAUT COMMISSAIRE AUX DROITS DE L'HOMME  
OPERATION SUR LE TERRAIN AU RWANDA

*Lafan*  
*Sp*

With the compliments  
of the Chief, Human Rights Field Operation in Rwanda

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Avec les compliments  
du Chef, de l'Operation des Droits de l'Homme sur le Terrain au Rwanda



Ambassador Shaharyar Khan  
Special Representative  
of the Secretary General  
UNAMIR  
Kigali

## HUMAN RIGHTS FIELD OPERATION IN RWANDA Operational Plan

### I. CONTEXT AND GOAL OF THE FIELD OPERATION

1. The Human Rights Field Operation in Rwanda (HRFOR) of the United Nations High Commissioner for Human Rights (UNHCHR) is part of the overall effort of international, regional and non-governmental organisations, as well as member States, to create conditions instilling confidence among Rwandese citizens, and in particular those most vulnerable elements of Rwandan society such as refugees and internally displaced persons, so that they eventually return to their country and homes to resume their lives in safety and dignity. The HRFOR cannot achieve this goal alone, but it can play an important role in enhancing security within the country and respect for the rule of law and basic human rights. The purpose of this Operational Plan is to explain the structure and function of the HRFOR.

### II. MANDATE AND CONCEPTUAL FRAMEWORK

2. The HRFOR was put in place as a result of Commission on Human Rights resolution S-3/1 establishing the mandate of a Special Rapporteur, Security Council resolution 935 (1994) establishing a Commission of Experts, and the mandate of the High Commissioner for Human Rights as contained in General Assembly resolution 48/141. Within the terms of these parameters, and as defined in the Preliminary Operational Plan of 15 September 1994, the field operation continues to have four objectives: (a) to carry out investigations into violations of human rights and humanitarian law; (b) to monitor the ongoing human rights situation and, through its presence, prevent future human rights violations; (c) to cooperate with other international agencies in re-establishing confidence, and thus facilitate the return of refugees and displaced persons and the rebuilding of civic society; and (d) to implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

3. After having made two visits to Rwanda, the High Commissioner reached an agreement with the Government of Rwanda in August 1994 that a maximum of 147 human rights field officers - a number corresponding to the number of communes in Rwanda - could be deployed throughout the country. As funds for such a large operation were not available from the regular budget, the High Commissioner has thus far made two appeals to the international community for funds to establish broad-based human rights field activities in accordance with the four above-mentioned objectives. On the basis of these appeals, a total of US\$ 4,463,194 was pledged by various Member States and others organisations. As these funds had to be collected, a sum of US\$ 3,000,000 was advanced from the Central Emergency Revolving Fund (CERF) so that the field operation could begin. A summary of the contributions received to date as well as the budget contemplated for the first half of 1995 are contained in annexes I-II. This revised Operational Plan and budget have been established for a six-month period because the volatile situation in Rwanda requires a flexible approach and a field operation able to adapt to changing conditions and needs. It is contemplated that the HRFOR will continue in Rwanda well beyond six months, but its activities and, therefore, its budgetary requirements may have to be amended according to these needs and conditions.



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4. The number of human rights field officers has grown steadily to the present number of 76, as of 16 January 1995. At present, mobile teams of human rights field officers have been deployed in the following regions: Butare, Cyangugu, Gikongoro, Gisenyi, Gitarama, Kibungo, Kibuye, Kigali, and Ruhengeri prefectures. A prefecture map is attached as annex IV. In addition to these teams, the field operation also includes a team assigned to prisons. The field operation continues to establish offices in all parts of the country to meet its objective of up to 15 field offices.

5. In the first few months of the operation, the emphasis was on investigations of human rights violations that occurred earlier in 1994. Information was collected by individual officers, and follow-up inquiries were conducted by a unit of experienced investigators and prosecutors. As the operation enters its next phase, field officers will emphasize monitoring of the ongoing human rights situation and cooperation with other international agencies in the re-establishment of confidence to facilitate the voluntary return of refugees and displaced persons.

6. Human rights field officers are now operating pursuant to written guidelines and with the benefit of a comprehensive training programme, both of which are intended to ensure that officers fully understand the parameters, objectives, and procedural modalities of the mandate in Rwanda and their role in carrying it out. In accordance with this mandate, officers are involved in numerous activities, including:

- (a) Monitoring current human rights conditions in areas in which teams are deployed and regularly reporting on those conditions to the UNHCHR, other United Nations agencies with operations in Rwanda, other international organizations, Member States and NGOs;
- (b) Receiving complaints and information about past and current human rights violations;
- (c) Intervening in life-threatening and other urgent cases of possible violations of human rights;
- (d) Interacting with Rwandese national and local government officials on human rights education and awareness;
- (e) Participating in the operations of the Government of Rwanda and the United Nations aimed at facilitating the return and protection of internally displaced persons and refugees;
- (f) Visiting prisons and other institutions; and
- (g) Coordinating activities and operations with other agencies and programmes concerned with the re-establishment of civic society in Rwanda.

7. Deployment of field officers will continue, subject to the availability of necessary logistical support. It will include contingents of some 25 United Nations Volunteers (UNVs) and some 36 fully equipped staff made available by the European Union (EU). Both these elements will become fully integrated with the HRFOR and will work under

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the authority of the High Commissioner. With respect to the former, UNV has just sent its first 8 volunteers to join the HRFOR; another contingent is expected to be deployed in mid- to late-February. An agreement will soon be signed between the High Commissioner and the EU, and the first group of EU officers will be sent under the criteria and modalities of that agreement during the month of February. Two additional groups of EU-donated officers will join the HRFOR in March.

### III. IMPLEMENTATION OF THE OPERATION

#### A. Structure of the HRFOR

8. To ensure proper direction and implementation of the various objectives, William Clarence (United Kingdom), an experienced former representative of the United Nations High Commissioner for Refugees, was appointed Chief of the HRFOR in September 1994. The executive structure of the operation was strengthened by the appointment of Abderrazak Essaied (Tunisia), another experienced former UNHCR representative, as Deputy Chief of the HRFOR.

9. The HRFOR is directed from its headquarters in Kigali by the Chief, under the authority and direction of the High Commissioner for Human Rights. The Chief of the HRFOR: coordinates and implements policies for the operation; ensures the effective overall functioning of the entire operation through his supervision; represents the High Commissioner to the Government of Rwanda; coordinates the activities of the HRFOR with the Special Representative of the Secretary-General, other United Nations agencies, intergovernmental and non-governmental organisations; represents the HRFOR at meetings and with the press; plans the deployment of personnel and the necessary logistical and administrative arrangements for the implementation of the various objectives of the operation; reports to the High Commissioner on all activities of and developments concerning the HRFOR; and, in close cooperation with UNAMIR, provides for the security of the operation. The Deputy Chief is responsible for providing assistance to the Chief in all these matters; in particular he directs the work of the administrative cell that handles personnel, finance and procurement matters. The Deputy Chief is considered Acting Chief during the Chief's absence.

10. The contingent provided by the European Union will have a coordinator who will be fully integrated into the headquarters of the HRFOR. As described above, field officers are assigned to units and teams, each with an existing or soon-to-be appointed officer-in-charge and team leader. The substantive units at the headquarter's level in Kigali, through which the work of the HRFOR is carried out, are the Monitoring Unit (MU), the Legal Analysis and Coordination Unit (LACU) which replaces the former Special Investigations Unit (SIU), and the Technical Cooperation Unit (TCU). An organizational chart of the HRFOR is attached as annex III.

#### B. Operational tasks of the HRFOR

##### 1. Investigations

11. As the initial focus of the operation was on investigations, a Special Investigations Unit (SIU) was created in September 1994 to assist the respective

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mandates of the Special Rapporteur and the Commission of Experts. The Commission of Experts issued its final report on 30 November 1994, completing the responsibilities entrusted to it by the Security Council. The Special Rapporteur continues to fulfill the terms of his mandate. Experts from Finland, Spain, Switzerland and the United States who had remained in Rwanda for a limited duration, together with some professionally qualified field officers, had comprised the SIU. The unit conducted in-depth inquiries into acts of genocide, including forensic examinations of massacre and mass grave sites, interviews of surviving victims and witnesses, and had collected and preserved documentary and other tangible evidence. The SIU was able to identify a priority list of 25 massacre and mass grave sites and to visit more than half of these. In addition, more than 100 interviews were conducted with victims and witnesses. Finally, more than 500 evidentiary documents were located and secured. Some additional personnel from the Netherlands and Norway will soon be added to the LACU which succeeds the SIU.

12. The activities of the SIU had been planned, keeping in mind that they would eventually be overtaken by the international tribunal that had still to be created at that point and to which the information compiled could be transferred for prosecution. The International Tribunal for Rwanda was established by the Security Council on 9 November 1994. The appointment of a Deputy Prosecutor has just been announced, with the opening of an office in Kigali to follow soon. The High Commissioner has placed at the disposal of the Prosecutor of the International Tribunal all of the investigatory work of the SIU, as well as its personnel. Consequently, with the appointment of the Deputy Prosecutor and opening of his Kigali office, the SIU has become the Legal Analysis and Coordination Unit (LACU) and its tasks will be adapted accordingly. LACU will continue to carry out investigations for the purposes of the Special Rapporteur and, with his guidance, will serve as liaison with the Tribunal for the cases it is investigating and with the national trials initiated by the Government of Rwanda, and will provide legal protection and other legal advice to the HRFOR.

13. Future investigations by the Deputy Prosecutor, LACU and the Rwandese authorities will be assisted by the human rights field officers, who, through their permanent contact with the population in the prefectures and communes to which they are assigned, will act as an information-gathering network. However, in view of the specialized skills needed for such investigations, and for reasons of confidentiality and security of possible witnesses as well as of the field officers themselves, the in-depth investigations, depending on the time of the alleged acts, will be carried out respectively by the office of the Deputy Prosecutor of the International Tribunal, LACU and Rwandese Government investigators and prosecutors.

## 2. Monitoring and Confidence-building activities

14. The goal of monitoring and confidence-building envisages establishment of a visible presence of human rights officers throughout Rwanda. Initially this was achieved with mobile units that visited various prefectures and communes. Field offices are being established in various locations to become their own centres of monitoring and confidence-building activity. Such offices have been established in or are being planned for: Kigali, Gisenyi, Ruhengeri, Byumba, Cyangugu, Kibuye, Gikongoro, Butare, Kibungo, and Gitarama. A map of Rwanda is attached as annex IV. The findings of the monitors will continue to serve as a basis for the reports of the Special Rapporteur and

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will be made available by the UNHCHR to the Secretary-General, Governments, UN agencies, intergovernmental and non-governmental organisations and the press.

15. Field officers participating in the HRFOR activities observe and report on:

- (a) Progress towards national reconciliation;
- (b) The establishment of courts or magistrates to resolve disputes among Rwandese;
- (c) The availability of housing and other facilities for those returning;
- (d) Actions taken by local government authorities or the Rwandese Patriotic Army regarding returning Rwandese and relevant administrative practices;
- (e) Security conditions which exist in their area;
- (f) The availability of basic goods and services; and
- (g) The development of programmes of education and dissemination of human rights information to Rwandese officials and the population at large.

### 3. Technical assistance activities

16. The confidence-building work of field officers will have to be supplemented by efforts to establish the fair administration of justice in Rwanda. At present, as many as 15,000 people have been jailed for various alleged crimes and violations of human rights in the central jail as well as in regional detention centres. In addition, Rwandese who do return to their villages and homes have no dispute-resolution mechanisms to secure their property and no civil police to enforce the authority of law and to keep the peace. Creating stability in Rwanda or, in the words of the Special Representative of the Secretary-General, to "restore the ship of State," will require the rapid creation of some dispute-resolution and enforcement mechanisms.

17. This effort will require the provision of technical assistance to the new Government to re-establish the rule of law and build new institutions for the promotion and protection of human rights. Helping to build this new infrastructure will allow the Government to break with the legacy of the past and to create new mechanisms for institutional and long-term human rights protection. In addition, the technical assistance programme for Rwanda will be designed to help strengthen civic society and the role of NGOs in promoting human rights.

18. To establish this technical assistance programme, the HRFOR, through its specialized Technical Cooperation Unit (TCU), will be undertaking the following:

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## (a) Short term:

- (i) Recruitment and deployment of legal experts to review, in close cooperation with the Rwandese judiciary, the dossiers of detainees so that either charges can be filed or prisoners can be released as appropriate;
- (ii) Recruitment and deployment of prison experts to assist in the proper and humane administration of prison facilities;
- (iii) Recruitment and deployment of legal experts to assist in the creation of appropriate mechanisms for the resolution of property disputes in support of traditional Rwandese dispute-resolution techniques;
- (iv) Recruitment and deployment of experts to assist in the setting up and training of a civilian police force that respects human rights; and
- (v) Dissemination of human rights materials and programmes in schools and in the mass media;

## (b) Longer term:

- (i) Provision of financial, personnel and material support to the Ministry of Justice, Ministry of Interior and Ministry of Education;
- (ii) Repair of judicial and law enforcement buildings, vehicles and filing systems;
- (iii) Training and education programmes for new attorneys, magistrates, judges and police;
- (iv) Creation of national institutions in the field of human rights;
- (v) Creation of bar associations and other non-governmental organizations to promote human rights in the administration of justice; and
- (vi) Assistance in reviewing Rwandese legislation to conform to international human rights instruments.

## IV. REQUIREMENTS OF THE HRFOR

A. Human resources requirements

19. The corps of human rights field officers is geographically and professionally diverse and includes professionals of both sexes, in particular jurists, teachers, social workers and doctors from 37 different countries. It is hoped that the target figure of a

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staff of 147 persons will be reached by the end of March 1995. Under the terms described above, this will be facilitated by the contingents of human rights field officers being provided from UNV and the EU. It should be noted that this figure would comprise members of the HRFOR dealing with different aspects concerning implementation of the operational plan, including experts specifically assigned to technical cooperation projects and specialized personnel for investigations. The UNHCHR will therefore continue to request more specialised personnel from governments and organisations on the basis of special service agreements.

#### B. Financial and material requirements

20. Implementation of the full operational plan of the HRFOR - 10 to 15 field offices, 147 field officers, a legal analysis and coordination unit, and a technical cooperation unit - will depend upon the ability to secure the necessary personnel and material resources. For the period from February through June 1995, some US\$ 6,5 million will be required. This amount will be spent as described in annex II. In addition, an amount of US\$ 4,836 million will be required to implement the short-term technical assistance programme.

21. Contributions should be transferred to: Société de Banque Suisse, Account UN Geneva General Funds CO; 590,160.1, Case postale 2770; 1211 Geneva 2, indicating that the money is destined for the Human Rights Field Operation in Rwanda.

#### V. CONCLUSION

22. The HRFOR was created very soon after the establishment of the Office of the High Commissioner for Human Rights. It is the first field operation that has ever been undertaken by the Office as well as the first large-scale United Nations humanitarian mission to be deployed on such short notice. It remains a test of the will and capacity of the international community to react quickly to grave human rights situations. It also tests the concept of a High Commissioner's Office responsible for coordination of such international efforts. In a relatively short period of time and without previous comparable experience, the Office has deployed nearly 100 human rights field officers throughout a country where lack of logistical and infrastructural support has proved to be a major obstacle. These officers have begun to make a contribution to the creation of confidence and stability that will be necessary before Rwanda can hope to return to normal life. The international community's attention, concern and support for this operation will undoubtedly prove to be most critical in the next six months to enable full rehabilitation and recovery in Rwanda.

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**HUMAN RIGHTS FIELD OPERATION IN RWANDA**  
**Operational Plan**  
**ANNEX I**

**EMERGENCY HUMAN RIGHTS FIELD OPERATION IN RWANDA**  
**STATEMENT OF PLEDGES AND CONTRIBUTIONS AS AT 13 JANUARY 1995**

Country	Currency and Amount	Equiv. US\$	Payment effected	Other services provided
Australia	A\$ 100,000	63,500		
Austria	Sh. 500,000	45,000		
Belgium	FB 15,000.000	465,800		
Denmark	US\$ 100,000	100,000	US\$ 100,000.00	
Finland	FIM 400,000	75,600	US\$ 83,267.41	1 Investigator (1 1/2 month)
France	FF 1,200.000	233,100		
Germany	DM 314,704	201,700	US\$ 119,949.36	= DM 187,121 + (Office building in Kigali)
Ireland	Irish £ 50,000	79,500	US\$ 79,547.71	
Israel	US\$ 10,000	10,000	US\$ 10,000.00	(instead of \$ 30.000)
Japan	US\$ 300,000	300,000		
Luxembourg	Fr.L. 550,00	17,000		
Netherlands	Dfl. 75,000 Dfl. 1,350.000	42,600 798,800	US\$ 44,640.00 US\$ 764,439.41	
New Zealand	NZ\$ 50,000	29,600	US\$ 29,597.74	
Norway	NOK 700,000	101,700		+ 2 Procurement Experts (3 months)
Spain	Peseta			2 Forensic Doctors (two months) + 1 Prosecutor (1 month) + \$208,000 for 8 UNV Monitors
Sweden	SEK 1,000,000	129,500		
Switzerland	CHF 100,000 CHF 150,000	75,758 113,636	US\$ 75,757.58 US\$ 113,636.36	+ 1 Criminal Investigator (3 months)
United Kingdom	£ 250,000	383.200	US\$ 383,155.00	+ 4 vehicles in Kigali
United States	US\$ 750,000	750,000		Airlift to vehicles Kuwait to Kigali
UNDP	US\$ 250,000	250,000		
OTHER ACCT	FF 663,600	120,000		
OXFAM	£ 50,000	80,000		+ 3 vehicles in Kigali
Individual: Mr. Mathias Montanach Grenoble (France)	FF 1,000	200	US\$ 195.31	
<b>TOTAL</b>	-----	<b>4,463,194</b>	<b>US\$ 1,804,185.88</b>	

**HUMAN RIGHTS FIELD OPERATION IN RWANDA**



- 9 -

## Operational Plan

## ANNEX II

HUMAN RIGHTS FIELD OPERATION IN RWANDA  
COST PLAN UNTIL JUNE 1995

(in thousands of US\$)

Heading	until January 95	February/ June 95	Total Sept 94 /June 1995
<b>A- Staff Costs</b>			
i) Salaries	1,030.2	2,494.5	3,524.7
ii) Travel expenses	1,133.9	1,333.7	2,467.6
<b>Total staff costs</b>	<b>2,164.1</b>	<b>3,828.2</b>	<b>5,992.3</b>
<b>B- Operational costs</b>			
i) General Operating expenses	243.3	579.5	822.8
ii) Supplies and materials	128.3	125.0	253.3
iii) Acquisition of furniture & equipment	952.5	1,198.5	2,151.0
<b>Total Operational costs</b>	<b>1,324.1</b>	<b>1,903.0</b>	<b>3,227.1</b>
<b>SUB-TOTAL</b>	<b>3,488.2</b>	<b>5,731.2</b>	<b>9,219.4</b>
Programme support costs (13 per cent)	453.5	745.0	1,198.5
<b>GRAND TOTAL</b>	<b>3,941.7</b>	<b>6,476.2<sup>1</sup></b>	<b>10,417.9</b>

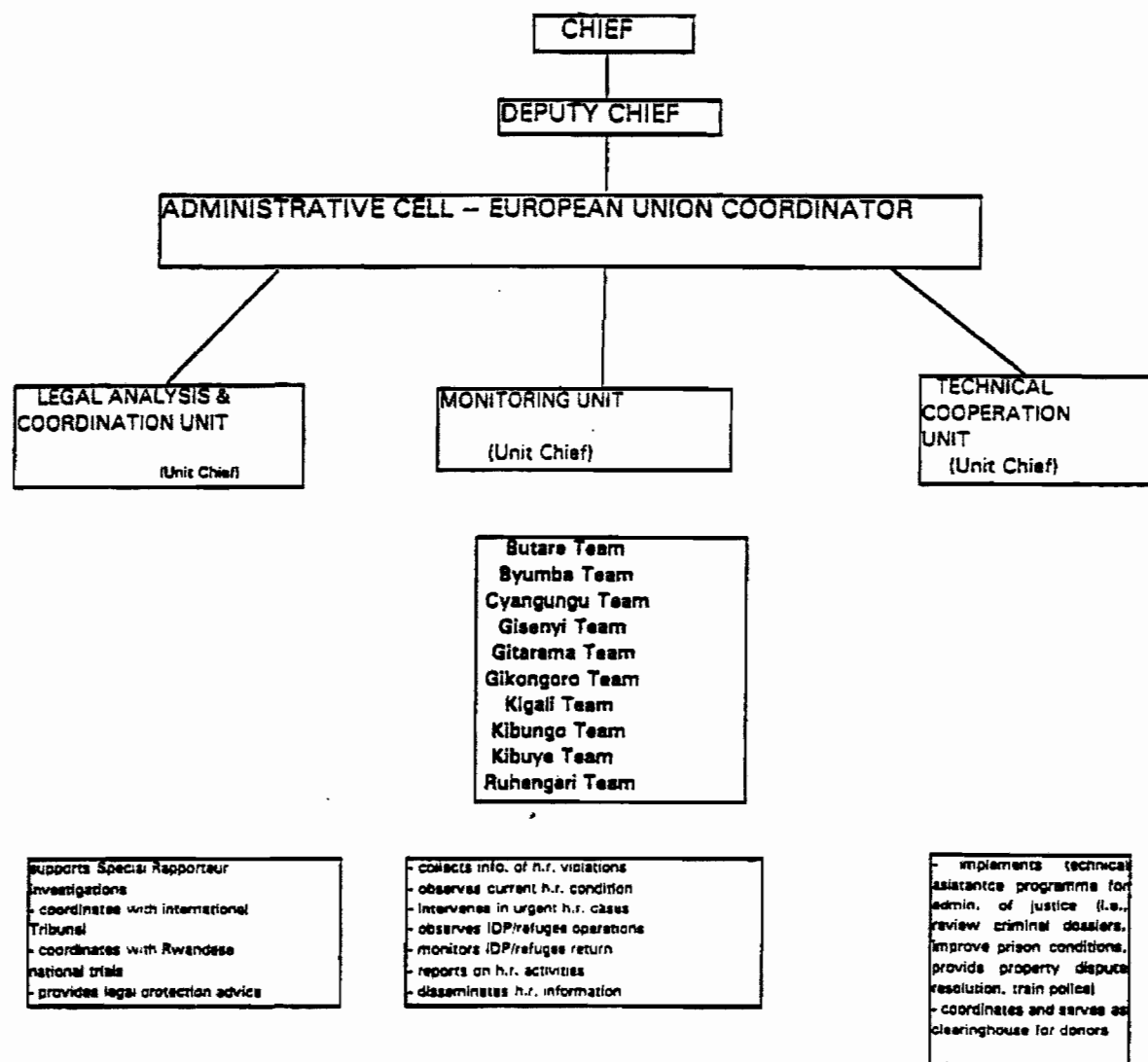
<sup>1</sup> This amount does not include the High Commissioner's request for funds (US\$ 4,836 million) for a programme of technical assistance for the administration of justice.

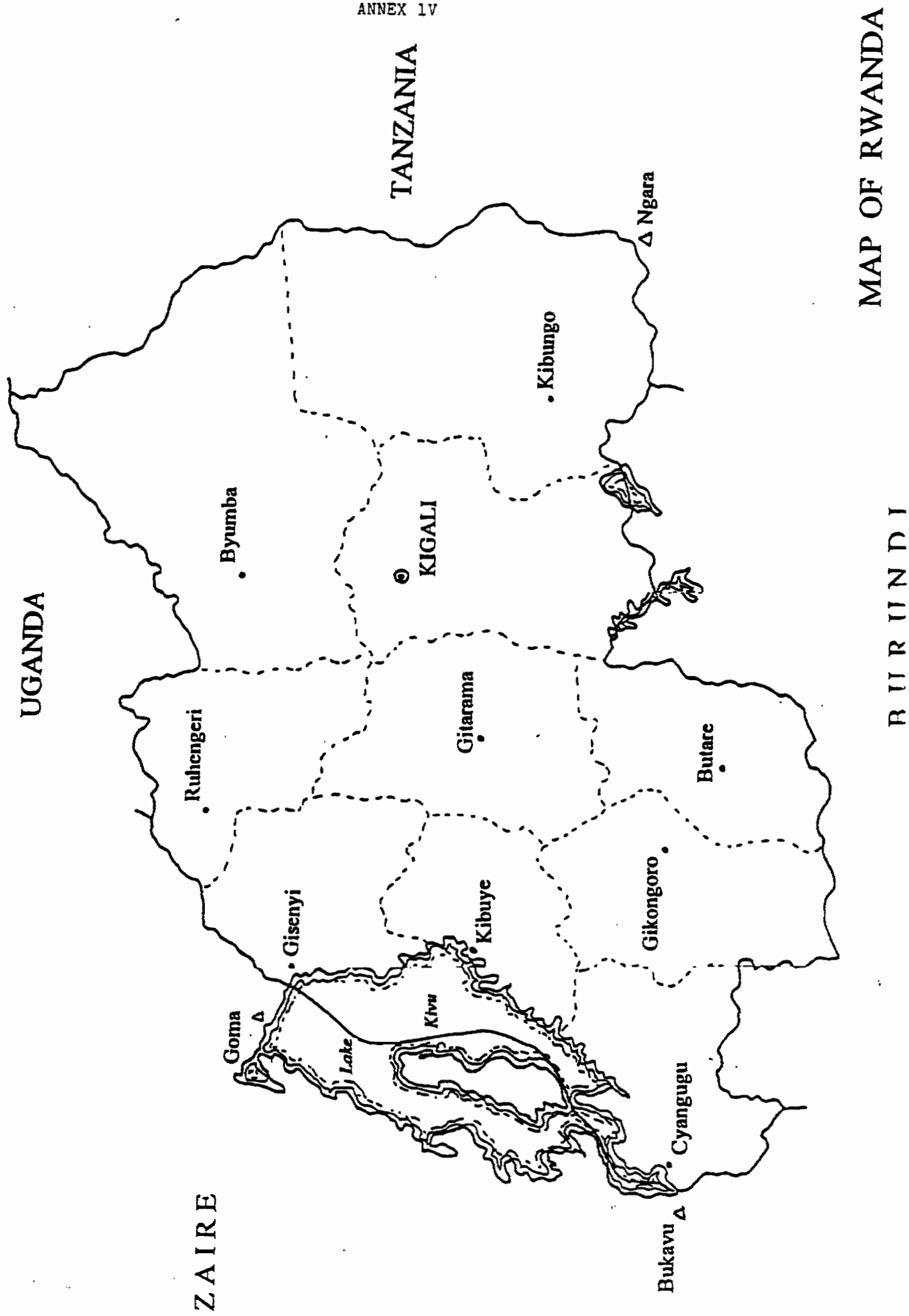
- 10 -

**HUMAN RIGHTS FIELD OPERATION IN RWANDA**  
Operational Plan

**ANNEX III**

**Organisational Chart**  
(16 January 1995)







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*Latin Ref:*

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**RWANDA**  
**Crying out for justice**



6 April 1995  
AI Index: AFR 47/05/95  
Distr: SC/CC/CO/GR

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

[EMBARGOED FOR 6 APRIL 1995]

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## **RWANDA**

### **Crying out for justice**

6 APRIL 1995

SUMMARY

AI INDEX: AFR 47/05/95

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The people of Rwanda need justice. One year after the massacres in Rwanda in which an estimated one million people were killed, the victims and their relatives are still waiting for those responsible to be held to account. Assistance from the international community is needed to bring the perpetrators of mass murder, mutilation and rape to justice, because the Rwandese judicial system has collapsed. But the international community is failing to mobilize the resources and expertise which were pledged when Rwanda was in the headlines and which are urgently required.

Thousands of people have been imprisoned by the current government without charge or trial. Some of these suspects are not the real culprits: they are held arbitrarily on the basis of unsubstantiated allegations. Some, such as a 12-year-old boy held in Butare prison, are reportedly held in place of relatives accused of human rights crimes.

Unless the judicial system is rebuilt, these people may languish in prison for a long time. Some have been tortured; many are held in secret detention centres in appalling conditions. Unless the judiciary is supported and rebuilt, the innocent will not be released and the guilty will not be brought to trial. If the victims of the genocide do not see justice being done, they may prolong the cycle of revenge and violence.

Most of the people who committed genocide and other crimes against humanity were supporters and members of the former government. Some of them have continued to commit abuses in refugee camps, particularly in Zaire and Tanzania. Neighbouring countries have a particular responsibility to promote and protect human rights in Rwanda.

Although on a far lesser scale, hundreds more people have been killed or "disappeared" since the current government came to power in July 1994. Many have been returning refugees or people living in camps for the displaced. For example, at least 12 people were killed and 37 wounded when soldiers opened fire in Busanze camp in the southwest. Few soldiers have been prosecuted, although the government has said it is holding some 400 soldiers accused of unlawful killings and other abuses.

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# RWANDA

## Crying out for justice

### 1. Introduction

Amnesty International is gravely concerned that the international community is failing to mobilize sufficient resources and expertise to bring justice to victims of genocide<sup>1</sup> and other crimes against humanity<sup>2</sup> in Rwanda. The resources and expertise are urgently required by both international and Rwandese jurisdictions. One year after an estimated one million people were killed in Rwanda, the victims and their relatives are still waiting for those responsible to be brought to justice. Most of the perpetrators of these crimes were supporters and members of the former government<sup>3</sup>.

The entire world was shocked by the scale of the slaughter which occurred in Rwanda between April and July 1994. Officials of governments and intergovernmental organizations declared that those responsible, particularly members and supporters of the former government who had planned, ordered or condoned the massacres would be brought to justice. One year on, promises by world governments to provide resources to ensure that justice is done remain largely unfulfilled, despite appeals by the Rwandese Government.

Unless those accused of the genocide and other crimes against humanity are identified and promptly given a fair trial, there will be no justice for their victims. About 23,000 people accused of involvement in the April to July 1994 massacres have been detained since July 1994. Most of them face a blanket charge of "genocide" without being formally charged, and none has been brought to trial. The under-resourced

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<sup>1</sup> Genocide is defined in international law not just as killing on a massive scale, but as killing or a number of other acts committed with intent to destroy, in whole or in part, a national, ethnic or religious group.

<sup>2</sup> Crimes against humanity include acts such as murder, extermination, enslavement, deportation, imprisonment, torture, rape, political, racial and religious persecution and other inhumane acts, when such acts are committed as part of a systematic attack against the civilian population.

<sup>3</sup> Since the civil war began in Rwanda in October 1990, Amnesty International has published reports about grave human rights abuses committed by soldiers and supporters of the former government, and made numerous appeals for an end to the abuses. The reports include one entitled, *Rwanda: Persecution of Tutsi minority and repression of government critics, 1990 - 1992* (AI Index: AFR 47/02/92), published in May 1992, and another entitled, *Rwanda: Mass murder by government supporters and troops in April and May 1994* (AI Index: AFR 47/11/94), published on 23 May 1994. Failure by the Rwandese authorities and the international community to respond to appeals by Amnesty International and other human rights organizations resulted in the massacre of hundreds of thousands.

Rwandese Government before April 1994 are known to be in the country. Only about five per cent of these have any formal legal training. There are only about 12 prosecutors in the whole country, and only 36 criminal investigators<sup>4</sup> out of 360 previously employed.

It is evident that the Rwandese judiciary does not have the capacity to investigate or try those suspected of gross human rights abuses which have been committed in Rwanda. Unless human and material resources are urgently made available to the Rwandese judiciary, revenge killings and other human rights abuses by victims and their relatives who think that there will be no justice are likely to continue and increase. On 24 February 1995 the Rwandese Transitional National Assembly passed a law allowing foreign judicial experts to work in Rwanda. This was in recognition by the Rwandese authorities that on their own they cannot cope with the enormous task of bringing perpetrators of human rights abuses to justice.

## **2.2 Victims of human rights abuses since July 1994**

Thousands of people have been killed or arbitrarily arrested and unlawfully detained since July 1994. Many of the detainees have been subjected to torture and other cruel, inhuman or degrading treatment. Others have been held in secret detention centres and military barracks. There are reports that dozens have "disappeared".

### **2.2.1 Arbitrary arrests and unlawful detentions**

By March 1995 there were about 23,000 detainees, most of them accused of involvement in the April to July 1994 massacres and other related crimes, held in various prisons in Rwanda. In some prisons detainees, including women and children, are held in overcrowded open air prison compounds. From late 1994 to March 1995, more than 100 people were being arrested daily. The Rwandese authorities have themselves accepted that more than 20 per cent of the detainees are innocent, but that they lack the resources to examine individual cases and release those with no case to answer. Amnesty International has received reports that some detainees are likely to be prisoners of conscience held on account of their ethnic origin or their known or suspected non-violent opposition to the new government. Yet, with a nearly non-existent judiciary, it is unlikely that they will be brought to trial in the near future so that those who have not committed recognizably criminal offences can be released.

Soldiers are reported to be interfering with the work of judicial officials and carrying out mass arbitrary arrests. Civilian judicial or government officials are

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<sup>4</sup> *Officiers de police judiciaire* (OPJ)

case to answer. However, the organization is concerned that three members of this committee overseeing cases of civilians belong to the security forces whose impartiality and independence are questionable since they are members of the agencies who carried out most of the arrests. In recent months members of the security forces have prevented the release of, or rearrested detainees whom judicial officials had determined were being unlawfully held. There have been allegations that the committee is mostly concerned about the cases of prominent persons whose continued unlawful detention is criticized by foreign governments or organizations. The committee was reported to have ordered the release of only six detainees by March 1995. Amnesty International is concerned that other less well-known detainees, or those held outside Kigali central prison, may be held unlawfully for long periods.

### 2.2.2 Secret detentions and "disappearances"

Detainees held in private houses and other unofficial places of detention are in great danger. They are at risk of torture, execution and "disappearance". The figure of 23,000 detainees does not include those in secret detention.

Amnesty International has received reports of people being abducted and "disappearing"<sup>5</sup>. Some of these are thought to be held in secret detention centres by the security forces or government officials. Their relatives fear that they may have been killed. For example, the whereabouts of **Gratien Ruhorahoza**, President of the Kigali High Court, have remained unknown since he was taken away by soldiers on 10 October 1994. He is believed to have been arrested because of his role in processing dossiers of detainees held in Kigali central prison. He had reportedly authorized the release of 80 detainees after deciding that there was insufficient evidence to justify their continued detention. A small number of these were released on 8 October, two days prior to his arrest, but the others apparently remain in custody. Sources in Kigali say that if Gratien Ruhorahoza is still alive he is likely to be held in a military installation where he may be subjected to torture or extrajudicial execution.

In some cases relatives of the "disappeared" have asked for information from high-ranking government and security officials but have not been given any. For example, the wife of **Marcel Ntiringanya**, a businessman, has contacted officials including local authorities, members of the Gendarmerie and government ministries. Her husband was

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<sup>5</sup> Some people whose arrest is not acknowledged by the authorities and are feared to have "disappeared" or been killed in custody do reappear. For example, Dr Canisius Mungwakuzwe, was reported in mid-1994 to have "disappeared" (see *Rwanda: Reports of killings and abductions by the Rwandese Patriotic Army, April - August 1994*, AI Index: AFR 47/16/94). Amnesty International has since established that he is alive and free.

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#### 2.2.4 Reports of extrajudicial executions

After the RPF-led government came to power some of its soldiers and supporters carried out deliberate and arbitrary killings of people accused of involvement in the April to July 1994 massacres. The government has said that it is holding some 400 soldiers accused of extrajudicial executions and other crimes. However, it remains unclear whether they have been formally charged and, if so, whether they will have fair trials. Amnesty International is concerned that those found guilty of carrying out killings may be executed. The organization is opposed to the death penalty because, as well as being the ultimate cruel, inhuman and degrading punishment, there is no convincing evidence that the penalty has any unique capacity to deter politically motivated crimes or terror.

Despite firm action announced by the government against soldiers perpetrating gross human rights violations, some reported killings do not appear to have been the subject of any investigation. For example, Australian soldiers serving with UNAMIR reported a sighting of several dozen bodies at Save near Butare. Rwandese Patriotic Army (RPA)<sup>6</sup> soldiers denied the peace-keepers access to the site. Two weeks later, the bodies reportedly disappeared without trace. Local people apparently claimed that hundreds of civilians had been massacred by soldiers in the area.

Many victims of recent killings have been returning refugees or people living in camps for the displaced. For example, at least 12 people were killed and 37 wounded when soldiers opened fire in Busanze camp in southwestern Rwanda. The Minister of Defence announced that he would take stern action against the perpetrators but it was still unclear by March 1995 whether the authorities had in fact taken any action.

#### 2.3 Abuses by former government officials and supporters

Some of those responsible for the genocide in Rwanda have continued to perpetrate abuses in refugee camps, particularly in Zaire and Tanzania. Dozens of refugees accused of supporting the new Rwandese Government have been killed. For example, an armed gang suspected of comprising former militia killed four refugees in eastern Zaire's Kibumba camp in November 1994. The victims appear to have been members of the minority Tutsi ethnic group accused of supporting the RPF. Other refugees who wished to return have been attacked.

Some former militia members and government soldiers are reported to be reorganizing within the camps in order to fight against the new Rwandese Government.

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<sup>6</sup> This is the name of the new Rwandese army since the RPF-led government came to power in July 1994.

implement programs of technical assistance, particularly concerning the administration of justice. By March 1995 no report of their work had been published. Amnesty International has received reports that the UN and the Rwandese authorities reached an understanding that human rights monitors would only report their findings confidentially to the Rwandese Government and the UN High Commissioner for Human Rights.

The European Union (EU) has decided to fund the deployment of 40 to 60 human rights monitors in Rwanda, working under the command and control of the monitoring operation set up by the High Commissioner for Human Rights.

### ***3.2 The UN Assistance Mission for Rwanda and human rights***

The UN Assistance Mission for Rwanda (UNAMIR) includes UN civilian police monitors (UNCIVPOLs) and unarmed military observers (UNMOs). In May 1994, soon after the mass killings had begun, the Security Council decided to cut the size of UNAMIR in Rwanda from an authorised strength of just over 2,000 to about 400. Amnesty International urgently called for the immediate return to Rwanda of the UNCIVPOLs and UNMOs and an increase in their number. They had a vital role to play in dissuading violence and reporting systematically on abuses, yet their deployment still took months. There were 5,740 UNAMIR troops in Rwanda by March 1995: only a few hundred of these had been deployed by the time the RPF had achieved a military victory and an RPF-led government was formed in mid-July 1994. By February 1994 the authorized strength of 309 UNMOs had been deployed as well as most of the authorized 90 UNCIVPOLs. UNCIVPOLs are playing a crucial role in helping to train a new Gendarmerie and monitoring its activities.

### ***3.3 The International Tribunal for Rwanda***

On 8 November 1994 the UN Security Council established the International Tribunal for Rwanda to try people responsible for genocide, crimes against humanity and violations of humanitarian law, committed in Rwanda between 1 January and 31 December 1994. The tribunal's jurisdiction also covers such crimes committed by Rwandese in neighbouring states. The tribunal excludes the death penalty from the punishments it will be able to impose.

The Tribunal has the same Prosecutor, Judge Richard Goldstone, and the same appeal judges as the International Criminal Tribunal for Former Yugoslavia. A Deputy-Prosecutor to head the Rwanda investigations was appointed in January 1995. Trial judges for the International Tribunal for Rwanda are due to be appointed in 1995.

Investigating and prosecuting cases in Rwanda will be expensive and time-consuming. Witnesses are scattered, and some have been intimidated or killed; suspects

of the former government had perpetrated acts amounting to genocide. It recommended that the UN Security Council act to ensure that the individuals responsible for these serious violations of human rights were brought to justice before an international criminal tribunal. It produced a final report in December. Whatever information the Commission of Experts collected will be given to the International Tribunal for Rwanda.

#### **4. The Organization of African Unity (OAU) and human rights in Rwanda**

Despite the enormous scale of violations of human rights and humanitarian law during the conflict in Rwanda, the Organization of African Unity (OAU) does not seem to have taken a firm stance on measures to guarantee protection and promotion of human rights. It appears to be taking little or no action when it should in fact be taking a leading role to reinforce respect for human rights in Africa.

In 1993 Amnesty International urged the OAU to implement a six-point program<sup>8</sup> proposed by Amnesty International to promote and protect human rights. Amnesty International indicated that Rwanda was one country where the OAU, within its conflict resolution mechanism<sup>9</sup>, should implement the program. However, it remains unclear whether the OAU has considered Amnesty International's proposed program. In 1994 the African Commission on Human and Peoples' Rights appointed a Special Rapporteur on extrajudicial executions and requested him to visit Rwanda urgently. However, as the Special Rapporteur was not given the resources to visit Rwanda he has been unable to carry out any effective role.

#### **5. Institution-building**

Institution-building in Rwanda should be seen as a high priority by the international community, as the foundation for stability, peace and reconciliation. The legal, judicial and penitentiary systems as well as the Gendarmerie urgently require reconstruction. As pointed out, the difficulties caused by the collapse of the judicial system are seriously damaging the protection of human rights and may also hamper the ability of the Rwandese authorities to provide the information and support which the International Tribunal for Rwanda will need to bring suspected perpetrators of human rights abuses to justice. The Rwandese Government has repeatedly called for international assistance

<sup>8</sup> The program is contained in a document entitled, *Appeal by the Secretary General of Amnesty International to Organization of African Unity to protect human rights in Africa* (AI Index: IOR 63/04/93).

<sup>9</sup> OAU Mechanism for Conflict Prevention, Management and Resolution

## **6.2 Intergovernmental organizations**

The UN and OAU could play a decisive role in ensuring that those responsible for crimes against humanity, including genocide and other gross human rights violations, are brought to justice swiftly and are tried in accordance with international standards for fair trial.

6.2.1 Information gathered concerning human rights abuses should be made public, unless it jeopardizes criminal investigations, as part of the process of the political and social healing of the nation. Dissemination of such information will have a deterrent and educational effect. To keep such information confidential perpetuates a climate of mistrust and resentment and encourages private vengeance, rather than facilitating national reconciliation.

## **6.3 The UN Secretary-General's Special Representative**

6.3.1 The UN continues to play a political role in Rwanda, principally through the Special Representative of the UN Secretary-General. He is also in close contact with governments of neighbouring countries. The UN, through the Special Representative, should remind those countries of their responsibility to bring to justice those responsible for human rights violations.

6.3.2 The Special Representative should use his influence with the governments of Burundi, Tanzania and Zaire, with whom he is in close contact, to ensure that they cooperate fully with the International Tribunal for Rwanda by facilitating its investigations on their territory. The Special Representative should use his influence with the Rwandese Government to ensure that national trials are fair and that the death penalty is not applied.

## **6.4 The UN Assistance Mission for Rwanda (UNAMIR)**

6.4.1 Amnesty International welcomes the setting up of Radio UNAMIR at the start of 1995. The radio should be used to promote reconciliation and human rights in Rwanda.

6.4.2 In order to create a police force that will be seen to be impartial, UNCIVPOLs should be involved in proposing recruitment criteria and operational guidelines to ensure that the highest standards of human rights and law enforcement are adhered to. UNCIVPOLs should themselves receive thorough training in international human rights standards and systematically monitor the conduct of the Rwandese Gendarmerie to ensure that it respects, protects and promotes human rights.



trial. As of March 1995, Amnesty International is unaware of a single state having done so, although about seven have done this for the former Yugoslavia tribunal.

6.7.2 As required by UN Security Council Resolution 978 of 27 February 1995, governments who find people on their territory who may have committed human rights violations in Rwanda should carry out investigations and, if there is sufficient evidence, prosecute them or transfer them to another jurisdiction where they will be brought to justice but not ill-treated or sentenced to death. Governments should not expel suspects from their territory to avoid responsibility for ensuring that they are brought to justice.

6.7.3 States should hand over any evidence of gross human rights violations in their possession to the International Tribunal for Rwanda.

6.7.4 Governments should urge Rwanda not to apply the death penalty.

6.7.5 Governments should contribute substantial amounts to the Voluntary Trust Fund of the International Tribunal for Rwanda so that it can accelerate its criminal investigations in Rwanda and other countries to prevent more evidence being lost.

6.7.6 Governments should fund a long-term program to rebuild the judiciary in Rwanda, bilaterally and through intergovernmental organizations such as the UN, EU and OAU. A concerted effort has to be made by the Rwandese Government, in devising a priority education programme for lawyers, judges and law enforcement officials, and the international community in providing funds, teachers and expertise. A strong human rights component should be included in all training programmes and courses.

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**amnesty international**

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**RWANDA**  
**CRYING OUT FOR JUSTICE**  
**Cases for appeals**



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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

## RWANDA: CASES FOR APPEALS

### **Introduction**

On 6 April 1994 an aircraft carrying President Juvénal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi crashed into the gardens of the Presidency in Kigali, Rwanda's capital. Shortly afterwards, members of the Presidential Guard, the National Gendarmerie and militia units known as "*interahamwe*"<sup>1</sup> began to execute people known or suspected of supporting a broad-based transitional government. By early July, it was estimated that at least 500,000 people, most of them members of the minority Tutsi ethnic group, had been killed in countrywide massacres. One year after an estimated one million people were killed in the genocide, the victims and their relatives are still waiting for those responsible to be brought to justice. Victims of human rights abuses who have so far been denied justice include the thousands of people who have been killed or arbitrarily arrested and unlawfully detained since July 1994 when the new government came to power. Political will and resources to ensure that all those who bear criminal responsibility are brought to justice remain inadequate.

By mid-August 1994 the Rwandese Government said it was holding some 800 suspected perpetrators of the genocide. This number had dramatically increased to about 10,000 by mid-November and currently stands at more than 23,000. There are credible reports that up to 100 persons are being arrested daily. In some prisons, prisoners, including women and children, are crowded into open air prison compounds. There is reason to believe that with such mass arrests, many of the detainees are likely to be innocent or outright prisoners of conscience, held for their known or suspected non-violent opposition to the new government. Yet, with a near non-existent judiciary, it is unlikely that they will be brought to trial in the near future. More worrying is the plight of detainees held in private houses and other ungazetted places of detention, whose numbers are not included in the 23,000. Amnesty International fears that these are likely to be subjected to torture, execution and "disappearance".

It is evident that the Rwandese judiciary does not have the capacity to investigate or try those suspected of human rights abuses and other crimes which have been committed in Rwanda. Although steps have been taken to set up the International Tribunal for Rwanda, this is not expected to try more than 20 suspects per year and only 50 in total. Hence, the vast majority of cases will have to be investigated and prosecuted by the Rwandese judicial system. However, the Rwandese judicial system will be unable to cope. Soon people are likely to despair of the law and the current revenge killings are likely to increase. Unless substantial human and material resources are urgently made available to it. Only

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<sup>1</sup> The militia units were created by Hutu-dominated political parties loyal to President Habyarimana. "Interahamwe" translates approximately in English to "those who attack together"

### Appeals case 1

**JOSEPH MVUKIYUMWAMI** was a research botanist with the National Institute of Scientific and Technological Research and the National Herbarium of Rwanda. He lived with his wife in Butare, southwestern Rwanda until the war between April and July 1994 forced him to flee with his family to Gisakuru, a small village on the west side of Nyungwe Forest Reserve, southwestern Rwanda.

During the massacres between April and July 1994 the Rwandese authorities called on all Hutu to "defend themselves" with weapons. Persons such as Joseph Mvukiyumwami who held positions of responsibility were reportedly routinely given firearms and ammunition to fight combatants and supporters of the rebel Rwandese Patriotic Front (RPF). Joseph Mvukiyumwami was given a gun and ammunition and ordered to distribute bullets to those taking part in the fighting. He reportedly never used the gun but kept it to scare away "*Interahamwe*" who were threatening his Tutsi students and his wife (also a Tutsi). On 6 September 1994 he was arrested by members of the Rwandese Patriotic Army (RPA) who had searched his house and found the gun and concluded that he had participated in the genocide.

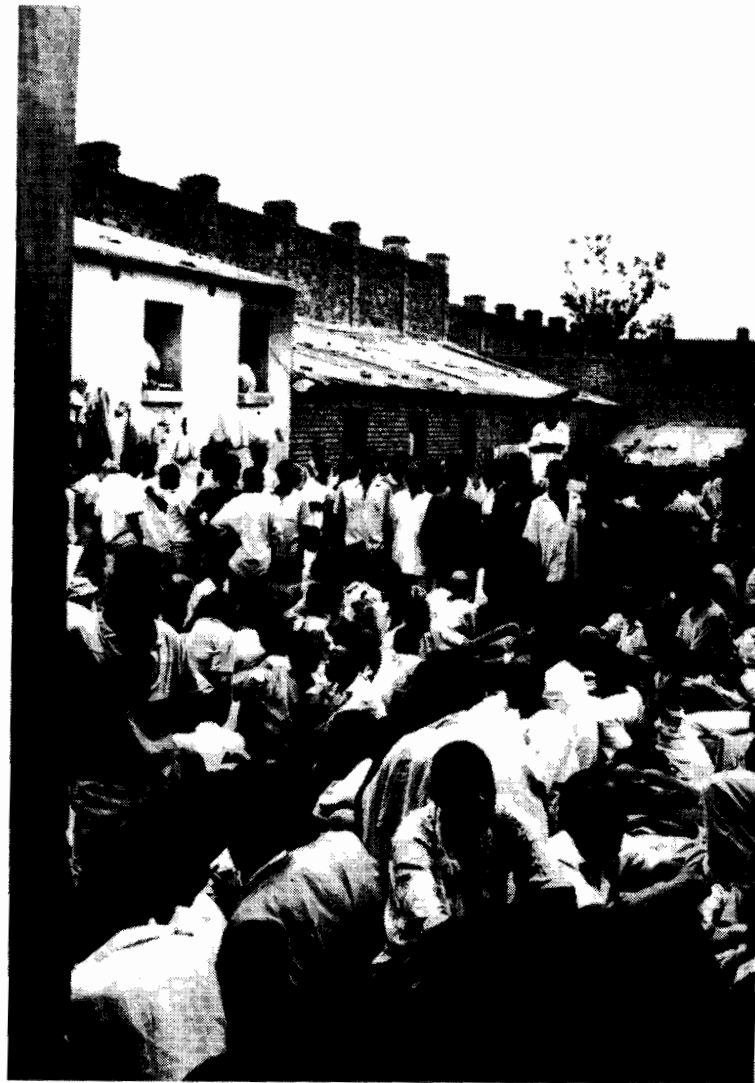
Joseph Mvukiyumwami is currently held in Butare prison where he is in good health and can see his family once a week for a very short time. Although, there may have been grounds to arrest and interrogate Joseph Mvukiyumwami on his possession of a gun and ammunition, there are credible reports that he never used it against anyone. On the contrary he reportedly used it to defend innocent civilians. However, although he has been in custody for more than six months, Joseph Mvukiyumwami has not been given the opportunity to explain his case before an independent and impartial judicial official. His continued detention is a violation of his right to have his case examined by a judicial official and be either brought to trial or released.



Appeal case no.2

**GRATIEN RUHORAHOZA** was the President of Kigali High Court before his arrest on Sunday 10 October 1994. He lived in Kigali with his wife and their six children under the age of 13. He was forcibly arrested at his home at 8 o'clock in the evening by three military personnel. He has not been seen since and it is feared that he has "disappeared".

Immediately prior to his arrest he was involved in processing dossiers for detainees held in Kigali central prison. He had drawn up a list of 80 prisoners to be released on the grounds that there was not enough evidence to detain them any longer on charges of participation in the genocide. A small number of these prisoners were released on 8 October, two days prior to his arrest. It is not known if any of the others have yet been released but it seems unlikely. Gratién Ruhorahoza's action in carrying out his official duties as a magistrate appears to have caused him to come into conflict with the military authorities. He is not held in a civilian prison but possibly in a military camp where prisoners are at risk of torture, "disappearance" or extrajudicial execution.



Appeal case no.3

**JOSEPHINE MUKASHARANGABO**, a wife and mother of four young children, was arrested on 31 July 1994 in Kicukiro, a suburb of Kigali. She has been accused of participating in the genocide. She denies the accusation and says that she and her family were harassed and at risk of being killed by former government supporters during the war between April and July 1994. She was briefly held in a police station before being moved to Kigali central prison where she is currently being held. AI has received frequent reports of torture and there are strong indications that its use in police stations in Rwanda is widespread. She is being held with 300 other prisoners in an area designed for 70 and is looking after her youngest son to whom she gave birth in prison in February.



Appeal case no.4

**JOSEPHINE MUKANYANGEZI**, a widow with two young children, was a judge in Kigali. She was arrested in Gikondo, Kigali, on 5 September 1994 by two members of the armed forces who she claims had no judicial documents ordering her arrest.

One of the arresting officers told her that his relatives had been killed by her brother. They accused her of being in charge of militia groups responsible for killing Tutsi families during the genocide. She was taken to a house in which one of the officers had taken up residence (one of the many homes occupied by members of the armed forces and others after the owners fled the fighting during the war). She was locked up with her two children in a pit latrine for three days and nights. A leaking car battery was being stored in the latrine. She and her children were forced to sit in the battery acid which covered the floor of the latrine. She has burn scars on her legs as a result. She was denied food and water and was badly beaten. She is currently held in Kigali central prison and has not been charged. She is able to have a short visit with her family once a week. She believes she is being held on account of her profession as a magistrate. Her children are being looked after by a friend, her mother is also in prison and her father died in custody in January 1995. Her brothers are in exile.





Appeal case no.5

**BERNADETTE MUKARUSINE**, 35 years old, and **MARIE MUKANYANGEZI**, 54 years old, both nuns, were arrested in late September 1994 by members of the armed forces. They lived in a convent in Shyongi in Nyamashike parish, Cyangugu prefecture, and were evacuated in April 1994 when fighting broke out. They returned there in September to assess the damage to their buildings which had been bombed. Bernadette Mukarusine was arrested on 23 September at Shyongi and Marie Mukanyangezi was arrested on her return to Kigali the following day. The members of the armed forces who arrested them had no warrant for their arrest. They held the nuns for two weeks at the police station in Remera, a suburb of Kigali. The two women were finally taken before the assistant Public Prosecutor of Kigali in October and accused of refusing sanctuary to two young children during the fighting and failing to look after the sick during the war. The nuns claim that one of the children they are accused of turning away from the convent and who was later allegedly beaten to death was reunited with them the day before their arrest.

They were transferred from a house in Kabuye and are currently held in Kigali central prison. Their convent in Shyongi is currently occupied by a family which returned recently to Rwanda. The sisters believe that the charges against them have originated from this family in order that they may remain in residence. Sister Marie Mukanyangezi has a chronic heart condition for which her parishioners supply her with medication. She has no access to a doctor.



**Appeal case no.6**

**AUGUSTIN MINANI**, a 12-year-old boy was arrested with five other boys by members of the armed forces in September 1994. They were arrested in their district (commune) of Ntyazo, Butare prefecture and held in a hut by the district administrator (bourgemestre) where they were badly beaten. One month later the other boys were removed from the hut. Augustin Minani believes that they were released, but he does not know their fate. He remained alone in the hut for a further three months. He was informed by the soldiers who arrested him that he was being held because his brother was accused of killing Tutsi during the massacres which occurred between April and July 1994. He claimed that before he was moved from the hut in February 1995 he was forced to sign a statement saying that he had killed someone.

He is currently being held in Butare prison where there are over 35 minors held with him. According to Rwandese law the legal minimum age for detention of minors is 14 years old. After the age of 16 it is considered that a child becomes an adult. Between the ages of 14 and 16, according to law, minors and adults must be separated. Augustin is currently held in the men's quarters. His physical health is good but he is severely traumatised.



# *African Rights*

*Co-directors: Rakiya Omaar and Alex de Waal*

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Mr. Shaharyar Khan  
Special Representative of the Secretary-General of the  
United Nations  
Kigali  
Rwanda

31 March 1995

Dear Mr. Khan

I am writing to send you a copy of a 67-page report which African Rights has just published on the United Nations Human Rights Field Operation in Rwanda. I am also sending you a copy of a cover letter to Mr. José Ayala Lasso, the High Commissioner of Human Rights.

I hope you will find the report informative and helpful in your discussions with Mr. Lasso during his visit to Rwanda.

Yours sincerely

Rakiya Omar

Would Miss R  
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African Rights has come across a number of official statements of HRFOR which give the impression that all is proceeding according to plan. Unfortunately, the results of our three-month investigation contradict the optimistic picture painted by these public declarations. African Rights had not intended to make an investigation of the UN HRFOR a priority, but was compelled to do so by the repeated requests of all those working in the human rights field in Rwanda, including many of those working for the mission itself.

As you will see from our report, our criticisms of HRFOR are wide-ranging. A complex and sensitive human rights mission such as HRFOR requires an integral mandate, strict impartiality and a high degree of professionalism. HRFOR has achieved none of these things.

A central feature of the agreement signed between the Government of Rwanda and your office is investigation of the genocide. It is impossible to understand the current situation in Rwanda, or to attempt to make a contribution to resolving some of the acute problems, without recognising the reality of the genocide. No approach to human rights can even begin, let alone retain integrity and credibility, without first investigating the huge crime that profoundly colours every individual and every event in Rwanda.

Yet this is what HRFOR has attempted to do. Investigating the genocide was briefly on the agenda for the monitors, but now has been designated as the exclusive responsibility for the International Tribunal and the Rwandese judiciary. This forces the monitors into an extremely partial, even partisan role: their mandate is essentially to try to prevent revenge attacks, and protect those who are the targets of such attacks--a role that most Rwandese perceive as highly political.

The problem of neglecting the genocide is compounded by inadequate attention to the normal procedures of human rights investigation, such as protecting the anonymity of witnesses and scrupulous checking of facts. As we note in our report, the uneven and unprofessional manner in which HRFOR has become partly involved in the work on the genocide has already made life more difficult for the government and will complicate the tasks awaiting the International Tribunal. This is because HRFOR has created inadequate standards of evidence, its failure to focus on the genocide has engendered a sense of despair among the survivors and its unprofessional standards have created fear among many survivors and witnesses.

Many of the monitors are young, inexperienced and unqualified, and have been sent to Rwanda with virtually

no training and preparation. The stories of how monitors were recruited and despatched to Rwanda would make for comic fiction. The tragedy is that the issues are very serious and this is, theoretically, a pioneering effort of the world's summit institution to come to terms with one the worst episodes of human rights abuses in recent decades. Monitors were hired over the telephone or by fax, without checking references. Many had no relevant work experience at all. In testimonies to African Rights, the monitors describe how they were completely unprepared for the task that confronted them.

In a situation that is beyond their competence, and with inadequate leadership and supervision, monitors have been compelled to improvise. This has resulted in an obsessive concern with making lists of current incidents, which are written up and sent to Geneva without verification. Such information has helped to shape international policy towards Rwanda, to the detriment of the Government and people of Rwanda, and to the prospects for regional stability. The new emphasis on going on "patrols", in extreme adopting an aggressive paramilitary style, shows an operation that is out of control. Relations with the local authorities, including the army, civil administration and judiciary, have been poor and often confrontational, with little or no attempt to support attempts by the Rwandese authorities to identify and arrest those suspected of active involvement in the genocide.

Confidence building between the government and the most vulnerable Rwandese citizens is, according to the agreement you signed with Prime Minister Faustin Twagiramungu, a priority of HRFOR. However, the lack of appreciation of the nature of the task is indicated by the terms of reference which refer to the needs of refugees and displaced persons, but make no mention of the most vulnerable groups of all--survivors of the genocide. Moreover, senior staff of HRFOR, notably its head, Mr. Clarence, have failed to establish a good working relationship with the government. At all levels, relations between UN human rights monitors and their counterparts in government, the army and the gendarmerie are characterised by hostility.

Technical cooperation is one area in which HRFOR has striven to make progress. The efforts of the staff members assigned to this task have, however, been undermined by lack of support from other sections of the mission, and by the overly technical, and hence politically naive, approach of the technical cooperation staff themselves.

Political partiality is increasingly characteristic of the HRFOR. Monitors have gone so far as to say that they understand their mandate to be "to nail the RPA." Whatever the motives for concentrating on current abuses, taken out of the context of the genocide, the result is that Rwandese generally see HRFOR as a mission to provide defence for those accused of participating in the genocide, and as the main source of criticism for the record of the RPA. The views expressed by members of HRFOR staff bear this out; they are routinely distrustful of the RPA, ready to pass on uncorroborated stories about alleged abuses by the RPA, and unwilling to engage in any meaningful cooperation with the RPA.

It is particularly regrettable that much of HRFOR's activity should be focused on providing protection for people suspected of involvement in the genocide, and impeding the government's own investigation. While it is important to respect the rights of the accused, it is also important to recognise that in Rwanda the overwhelming priority is to facilitate bringing to justice those guilty of genocide--a formidable task in a country whose judicial institutions have been all-but-destroyed. Without speedy progress towards justice, the impulses towards indiscriminate revenge and the entrenched culture of impunity will make for an extremely explosive political situation.

The poor professional standards of staff, lack of leadership, and distorted mandate have eroded whatever moral high ground HRFOR might have enjoyed. Infighting and low morale among mission staff have been the inevitable result. You will no doubt get a sense during your visit of the internal dissensions that have wracked HRFOR. Petty personal disputes have taken on a large and sometimes violent character, and much of the mission's activity is mired in recrimination. Meanwhile, huge resources are consumed, including unnecessary and extravagant use of helicopters. At immense cost, precious little of substance is achieved.

In conclusion, we regret to say that HRFOR has so far proven to be a complete waste of resources, both human and financial, and a betrayal of the hopes of the Rwandese people. It has also betrayed the hopes of many of the monitors themselves. A number of these men and women are qualified and experienced, assets which have for the most part been wasted. Even those who are young and lack experience could have, with the right direction, encouragement and management, made a positive contribution to Rwanda, and in the process learnt something useful themselves.

We believe that the appeal that your office has made for funds to continue the mission will be a futile and counter-productive exercise unless HRFOR is thoroughly reformed. We conclude our report with a set of recommendations that could enable HRFOR to begin fulfilling its responsibility as protector of human rights in Rwanda. This is all the more urgent in light of the possibility that human rights monitors might be despatched to Burundi and a similar operation set up for Angola.

I would be pleased to meet with you during your visit to Rwanda and to discuss the contents of this report, and in particular our recommendations. Despite our sharp criticism of the mission, this report is written with a view to improving the performance of HRFOR.

I look forward to hearing from you. In Kigali I can be reached at the following telephone number: 76530.

Yours sincerely

Rakiya Omaar

cc President of the Republic of Rwanda  
Vice-President and Minister of Defence of the Republic of Rwanda  
Prime Minister of the Republic of Rwanda  
Minister of Foreign Affairs and International Cooperation  
Minister of Justice  
Minister of the Interior and Communal Development  
Minister of Rehabilitation and Integration  
Chief of Staff of the Armed Forces  
Chief of Staff of the Gendarmerie  
Prosecutor of Kigali  
Special Representative of the Secretary-General of the United Nations to Rwanda  
Commander of UNAMIR 11  
Embassies accredited to Rwanda



# African Rights

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Pl. look through and  
let me have any points of special interest.

Laran R. Seel.  
15.4

**Rwanda**

**"A Waste of Hope"**

## The United Nations Human Rights Field Operation

*The UN human rights mission in Rwanda is a waste of time, energy and money. But worst of all, it is a waste of hope.*

A monitor working with the United Nations Human Rights Field Operation in Rwanda, interviewed in Kigali, 11 February 1995.

*There is not a single area of our needs where I can say that this human rights mission has made a contribution. When I look at their mandate, at what they say they are going to do, there is nothing I can tell you they have done for us. Nothing. They have never come to discuss how they can contribute to the reconstruction of Kibuye. They have not conducted serious investigations into the genocide, they have done nothing about re-establishing the judiciary, they have done nothing about confidence-building. On the contrary, they are only causing us problems. In my view this mission is contributing to insecurity in Kibuye, to the raising of political tensions.*

Asiel Kabera, préfet of Kibuye, interviewed in Kibuye, 12 March 1995.

**March 1995**

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## *African Rights*

*African Rights* is an organization dedicated to working on issues of grave human rights abuses, conflict, famine and civil reconstruction in Africa. The urgent motivation for setting up African Rights is that we have become acutely aware of the limitations upon existing human rights, humanitarian and conflict resolution approaches to Africa's most pressing problems.

Any solution's to Africa's problems--the emergency humanitarian needs just as much as the long-term demands for political reconstruction and accountability--must be sought primarily among Africans. International organizations should see their principal role as facilitating and supporting African initiatives. The existing institutions for addressing these problems have not looked to the African people for answers. African Rights tries to give a voice to Africans concerned with these pressing issues, and to call for more accountability from the international community in its various operations in Africa.

Rakiya Omaar

Alex de Waal

## Overview

In post-genocide Rwanda, the United Nations Human Rights Field Operation in Rwanda (HRFOR) represented a moment of hope. For the survivors of the genocide, it was the first concrete expression of international solidarity from a world that had looked on throughout the genocide. It was to be a helping hand in the search for truth and justice. It represented a chance for an embattled and impoverished government to begin the difficult but urgent task of delivering justice and reconstructing a country devastated beyond belief.

It held out the possibility for a mechanism whereby the UN would work in a constructive spirit with the Government of Rwanda to ensure an active, politically informed and comprehensive protection role for refugees and the internally displaced. It represented a chance to assist a guerrilla army emerging from the brutality of a genocide, and facing a range of formidable problems. These include the challenge of transforming itself into a standing, national army while policing a country with no civilian police force, tens of thousands of hard-core killers at large, thousands of grieving and enraged survivors desperate for justice while keeping the country safe from a former army and militia consisting of genocidal criminals.

Finally, HRFOR represented a moment of hope for people all over the world who expect more from the United Nations in the field of human rights. It was an opportunity for the United Nations, which stood discredited in the eyes of the Rwandese people, to redeem itself. It is the first operation run by the newly-established office of the High Commission for Human Rights. As the first UN human rights initiative that exists independently of a peace process, it had far-reaching political, strategic and practical implications.

The United Nations Human Rights Field Operation in Rwanda (HRFOR) is the first initiative of the newly-created United Nations High Commission for Human Rights. It was established in accordance with resolution S-3/1 adopted by the United Nations Commission on Human Rights on 25 May 1994 and resolution 935 of the Security Council adopted on 1 July 1994.

On paper the mandate of the United Nations Human Rights Field Operation in Rwanda (HRFOR) is impressive. The objectives are spelt out in the (undated) Agreement Between the United Nations and the Government of Rwanda on the Status of the Human Rights Mission in Rwanda, signed by the Prime Minister, Faustin Twagiramungu, and the High Commissioner for Human Rights, José Ayala Lasso:

- (a) To carry out investigations into violations of human rights and humanitarian law including possible acts of genocide, in accordance with directives given by the Special Rapporteur on the situation of human rights in Rwanda and the Commission of Experts;
- (b) To monitor the ongoing human rights situation and, through their presence help redress existing problems and prevent possible human rights violations from occurring;
- (c) To cooperate with other international agencies in charge of re-establishing confidence and thus facilitate the return of refugees and displaced persons and the rebuilding of civic society;
- (d) To implement programmes of technical cooperation in the field of human rights, particularly in the area of the administration of justice.

To implement this ambitious project, there are a number of objectives and strategies that were critical to its chances of success. Firstly, HRFOR needed to adopt an integrated mandate encompassing genocide, current violations, confidence building, reconstruction of the legal system and promotion of human rights education. Secondly, its work needed to be guided by the principle of impartiality based on human rights objectivity, not neutrality. Thirdly, every step taken by HRFOR should have been decided according to high standards of professionalism.

According to public statements issued by HRFOR, these objectives have been achieved. A paper published in February stated that:

The basic structure of public administration is in place, but the new public authorities do not have the confidence of the whole of the population. Through monitoring of events at all levels of Rwandan society, intervening as appropriate with Rwandan authorities, and providing accurate information as to developments, the international community [i.e. HRFOR] contributes to both the ability of the Government to exercise its authority responsibly, and to reduce the anxiety of Rwandan refugees and displaced persons towards the prospects for returning home in security.<sup>1</sup>

This optimistic assessment has been repeated, and expanded, in the Comprehensive Programme of Technical Cooperation in Human Rights for Rwanda, a two-year programme for which HRFOR is seeking financial assistance.

Nearly a hundred rights field officers have been deployed throughout the country in order to react to the grave human rights situation. [At the time of writing, only about sixty were working in Rwanda. The others had just arrived and had not yet taken up their responsibilities] These officers have begun to make a contribution to the creation of confidence and stability... The immensity of the needs and the complexity of the environment in Rwanda bring a tremendous challenge to the international community, and particularly to the United Nations High Commissioner for Human Rights, who has been given the responsibility for this area by the Secretary General. The High Commissioner's offices in Geneva and his field operation office in Rwanda have been acting as the most efficient conduit of information for the area, working in close consultation with the Government of Rwanda. A legal expert and an educational expert have been assigned to work in each prefecture throughout the country and at the national level to define needs and help prioritise projects.

For over two months, 25 field officers have been actively engaged with government officials, on the local and national levels, to work to articulate needs and establish priorities according to which projects will positively contribute to improving the human rights climate.

Sadly, the reality on the ground belies this rosy picture. As this report, based on first-hand information from the monitors themselves will show, HRFOR has been a dismal failure. Destined to become a pathetic footnote in Rwanda's history, it is indeed a worthy successor to the first United Nations Assistance Mission for Rwanda, UNAMIR I, which abandoned the country as genocide was launched. Rudderless, wasteful and incompetent, it has been, in the

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<sup>1</sup> Quoted in "Prospects and Activities for National Reconciliation in Rwanda", HRFOR/doc/feb95.

words of a staff member, "a systematic boycott of everything that could have made a positive contribution."

As a model for a future approach to human rights elsewhere, it is nothing short of catastrophic. Unfortunately for Africa, the UN is on the eve of despatching a similar mission to Angola. There have also been discussions to send monitors into the complex and politically explosive situation existing in Burundi. And it is apparent that the UN has learnt nothing from its current debacle in Rwanda, as it had earlier learnt nothing from Somalia and Bosnia.

HRFOR is surreal. At times it was difficult to believe the information and documents given by a wide range of monitors working in the mission. A number of monitors who read earlier drafts of this report in Rwanda wondered aloud if anyone outside HRFOR could believe the contents of this report. Independently of each other, several monitors suggested 'stranger than fiction' as an appropriate title for this report. Other ideas for titles included 'designed to fail.'

This report is based on three months of research conducted in Rwanda in January, February and March. African Rights had not planned to focus on the work of the United Nations but was urged to do so by many of the monitors themselves. African Rights interviewed about two dozen monitors, many of them on several occasions. Largely for professional reasons, most monitors agreed to talk on condition of anonymity and we have respected their wish. For this reason we have not included details about the date and location of interviews with monitors, except where they spoke for the record.

## The Genocide: Not the Issue

*When you condemn the genocide, you are considered not to be neutral.*

A former monitor talking to African Rights in Kigali, 4 February 1995.

The United Nations Human Rights Field Operation in Rwanda (HRFOR) was established in the wake of the genocide. It was created because of the genocide. Hence investigation of the genocide and the meticulous, systematic gathering of evidence that would help to convict the killers should have been the central focus of HRFOR. It is not. To say that the genocide has been marginalised within HRFOR would be an exaggeration: it has barely been part of the agenda.

The survivors of the genocide are by far the most vulnerable group of Rwandese. Many are still suffering from the physical wounds they sustained. Others have been left severely handicapped, including many women who must look after their children and the orphans of relatives. The majority have lost most members of their immediate and extended families. Many people, including children, are the lone survivors of entire families. In addition, everyone has lost friends, colleagues and neighbours. They are overwhelmed by grief and loneliness. At a practical level, the death of so many people has destroyed their support networks, making it even more difficult to rebuild their lives.

But the survivors of the genocide have lost more than the people they loved. Most of them have lost everything they have ever owned. The men and women who planned and implemented the genocide called upon the population to loot the property of Tutsis. This was a principal strategy for encouraging mass participation in the slaughter. Their livestock, money and household belongings were confiscated. Their land was inherited by their assassins, or 'rented out' by local government officials to build up political alliances. Their businesses were taken over and their homes were destroyed. It is difficult to meet a survivor of the genocide whose house has not been demolished. In the préfectures most affected by the genocide--Kibuye, Cyangugu and Gikongoro--it is virtually impossible to find the trace of a home that belonged to a Tutsi prior to April 1994.

Nor is fear ever far from the surface. It is not true that most of the killers have left the country. There are thousands of mass murderers at large throughout Rwanda. This is especially true of Gikongoro which hosts the last of the camps for the internally displaced, many of them criminals from Gitarama, Butare, Kigali and Greater Kigali. There are virtually no survivors of the genocide who dare return to Gikongoro. Ten thousand of them are living as displaced people in Butare; the others are scattered in Kigali. Anxious to eliminate evidence of their crimes, in the remote hills of Cyangugu and Kibuye, killers are trying to finish what they regard as the 'uncompleted' genocide. In February and March, African Rights interviewed a number of survivors who had recently been severely wounded by the same men who had tried to kill them during the genocide.

According to the Operational Plan of 16 January 1995, 'HRFOR is part of the overall effort of international, regional and non-governmental organizations, as well as member States, to create conditions instilling confidence among Rwandese citizens, *and in particular those most vulnerable elements of Rwandan society such as refugees and internally displaced*

*persons, so that they eventually return to their country and homes to resume their lives in safety and dignity.*' (Emphasis added) No mention is made of the survivors of the genocide even though they are the most vulnerable of Rwandese groups. In contrast to the refugees and the internally displaced, the survivors of the genocide have received virtually no material assistance from the UN or NGOs in Rwanda. In addition, they remain oblivious to the security concerns of the survivors, highlighting only the need to ensure the security of the returning refugees and the displaced.

Human rights organizations, national as well as international, have lost their credibility and relevance in the eyes of most survivors. The failure of most international human rights groups to visit Rwanda during the genocide and their focus on current violations rather than the genocide has, justifiably, encouraged a corrosive cynicism that questions the very value of human rights organizations. Remembering the departure of UNAMIR 1 at the very moment genocide was launched, in countless interviews with African Rights particular rage was vented at what one survivor called the "audacity" of the UN to send human rights monitors to Rwanda. Dr. Emmanuel Bugingo, vice-rector at the University of Butare lost his wife and most of his friends. Making a gesture of dismissal with his hand at the mention of the UN monitors, he asked, in a voice seething with anger:

And where was the concern of the UN for human rights during the genocide? Where? What human rights, whose human rights?<sup>2</sup>

These reactions are widespread among the survivors of the genocide who feel forgotten by their own countrymen as well as the world at large. Unable to forgive the UN for its betrayal, most survivors would have found it difficult to give HRFOR the benefit of doubt. But the perception that the mission has done nothing about the genocide has sharpened their criticism and their cynicism about the motives behind the creation of HRFOR. The employee of a UN agency in Butare who lost most of his family and was lucky to have escaped death commented:

When I look at the human rights monitors in Butare, I can only conclude they came to hang about this country. We have tried to talk to them about the genocide. But they are more concerned about the imprisonment of one person than the killing of thousands of people. When you tell them about a mass grave, they shrug you off. But they get really excited if you tell them that an RPA soldier slapped a civilian. They also like to go around taking photographs of houses they believe have been occupied since the RPF came to power.

He added:

From what I have seen in Butare, I feel that the work of the UN monitors is really a disgrace to human rights. There is a risk that no one in Rwanda will be able to take the work of human rights organizations seriously.<sup>3</sup>

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<sup>2</sup> Interviewed in Butare, 17 January 1995.

<sup>3</sup> Interviewed in Butare, 18 January 1995.



### *What Mandate to Investigate the Genocide?*

An analysis of HRFOR's approach to the genocide confirms the worst fears of the survivors. In mid-September, a team of four Americans arrived in Kigali to begin investigation of the genocide. It is not clear if they were an integral part of HRFOR or a separate delegation sent by the US government. Whatever the formal relationship, or lack of, they refused to work with HRFOR. Doubtless because they sensed that the confusion surrounding HRFOR would frustrate their research. They left after four weeks in Rwanda. It is not clear how much ground they were able to cover in that period. As of late March 1995, none of the monitors who spoke with African Rights had ever seen a copy of their report or knew where a copy could be found.

By the end of October, pressure was mounting on HRFOR to do "something" about the genocide. The "something" remained to be defined. In the rush to appear active, monitors were told "you can identify witnesses but you cannot collect information." Towards the beginning of November, a staff member was appointed head of the Special Investigations Unit [SIU], a two person team that was given exclusive responsibility over investigation of the genocide.

Unfortunately, SIU was not given the human resources to conduct its work in a serious and thorough manner. For the most part, its research appears to consist of taking helicopters to grave sites for a few hours. SIU compounded the problem by failing to co-ordinate its activities with the monitors in the field. One monitor spoke for many others when he complained of an incident that happened in his préfecture.

Never mind co-ordination. They did not even have the courtesy to inform us when they were coming to our préfecture. They would just turn up. We are the people on the ground, the people who have the responsibility of making contact with the authorities and the victims. They fly in to your region, you don't know where they go, what they found out, who they talked to. We have never been allowed to see their reports. It's super secret, 'confidential.' It is ridiculous. How can one arm of HRFOR hide material from another arm of the same operation?

Such is the apparent indifference to the genocide that even when SIU's team finally geared up for action, it was ordered to deflect its attention away from the genocide and to focus on current incidents. Consequently, the SIU team flew two or three times to Cyangugu in November after thirteen people were killed in Kamembe. Even a Spanish team of forensic experts who had come to investigate mass graves joined the effort.

In December, the SIU was asked to wind up its work, limited as it was, and to hand the responsibility, and all the material gathered, to the office of Judge Richard Goldstone, the Chief Prosecutor of the International Tribunal for Rwanda. In late December, the teams in the field received a letter from the deputy chief of SIU, giving them a month's deadline to gather information concerning mass graves/massacre sites, witnesses and contacts with local government officials, military authorities, UNAMIR, military observers (MILOBS), UN agencies and NGOs so as to transfer the dossiers to Judge Richard Goldstone's office.

Each field office was asked to appoint a two-member genocide investigation team to work with the SIU and the International Tribunal during this transition period. The order to the teams was to 'gather a database of summary information in a systematic and co-ordinated form

to be used by the Chief Prosecutor's analysts and investigators later on.' This is disingenuous for SIU knew perfectly well that the monitors in the field had done nothing about the genocide until then.

The initial deadline, 21 January, gave the monitors three weeks to begin and complete a study on a genocide that killed hundreds of thousands of people in some of the préfectures. The deadline was extended progressively and expired on 13 March. While the extra time was helpful, the elasticity made it impossible to plan the research properly.

There were other problems. Despite the seeming urgency of the task, some of those assigned to the work were not given the vehicles that would have enabled them to carry out their responsibilities. Left immobile, at least one monitor was forced to rely on information provided by MILOBS stationed in Rwanda during the genocide, instead of survivors who are by far the best source of information.

In January, mission members were given forms intended to identify the site of mass graves. They were requested merely to indicate their location. This is a waste of time and resources. Firstly, it is not clear what SIU had been doing up to that point, spending thousands of dollars flying around Rwanda in helicopters, if it was not for the simplest of tasks, the identification of potential mass graves. Secondly, the monitors were not expected to do anything other than to make a simple drawing concerning a site where they think there is a mass grave, without being to ascertain the facts. The purpose of such an exercise eluded the monitors themselves.

Anyone can come up and say that there is a mass grave over there where there is some grass and stones. And even if there is, we know nothing about forensic work and are not expected to dig the sites. So what is the point of wasting our time and creating false expectations in the people concerned about the graves and in the International Tribunal?

One monitor condemned the exercise as an insult to the victims, the survivors and to all those affected and concerned about the genocide.

The forms we have been asked to fill out and the drawings we are asked to make are absurd. Do they think we in primary school? It is just another scouting expedition. I never filled out a single form because I think it is an insult to the victims of the genocide, to the survivors, to our humanity and to our intelligence.

The monitors lack the experience to dig graves without running the danger of destroying important forensic evidence. In addition, to allow them to do so would be a gesture of disrespect to the dead and would rightly offend surviving relatives and friends. This makes the exercise, which consumed time and resources, all the more regrettable.

#### *Relations with the Government and the International Tribunal*

Discussions took place in early March between the office of the High Commissioner for Human Rights, José Ayala Lasso, and the office of Judge Richard Goldstone about the

handover. It was apparently agreed to appoint a liaison officer between the mission and the Tribunal.

In their visits to Rwanda, the staff of the International Tribunal have emphasised their plans to concentrate on prosecuting the key architects of genocide--the ideologues, politicians, propagandists, military and security officers-- who are living abroad. It is certainly their ideology, policies, propaganda, threats and resources that put bullets, grenades and machetes into the hands of men, women and children throughout Rwanda.

But, with rare exceptions, the material gathered by monitors will have little relevance to the cases to be taken up by the International Tribunal. The information, however unsatisfactory, would be an asset to the Government of Rwanda which has the responsibility to prosecute the people responsible for the existence of mass graves. The government is strapped for the human and financial resources necessary to conduct careful investigations into the cases of thousands of people arrested or suspected of complicity in the genocide. It goes without saying that HRFOR should have done everything possible to help fill the existing gaps. As of late March there were no indications that HRFOR had any plans to share this information with the Government of Rwanda.

The failure to address the genocide hardly augurs well for the work of the International Tribunal. The uneven and unprofessional way in which HRFOR has become partly involved in the genocide issue has made life more difficult for the government and the International Tribunal because it has created inadequate standards of evidence, it has engendered a sense of despair and cynicism and it has created fear among many survivors and witnesses. In addition, the monitors who have devoted some time to the work on the genocide have not been given clear guidelines about what will happen to the material they have collected. They have been asked to hand over all their material, including confidential witnesses statements and hand-written notes. Their lack of confidence in the leadership of HRFOR has increased their anxieties about the risks they might be exposing witnesses to.

#### *The Politics of Property*

Ignorance about the genocide is apparent throughout HRFOR. The Comprehensive Programme of Technical Cooperation in Human Rights for Rwanda raises one of the most delicate and politically sensitive issues in post-genocide Rwanda, the destruction and occupation of houses. There are two issues at stake. The first is the property of the survivors of the genocide. The second is the property of the refugees who have fled abroad since July or of the displaced who have moved to other regions of Rwanda.

The debate about property has concentrated exclusively on the 'illegal occupation' of the houses belonging to the refugees and the displaced, with charges that survivors of the genocide and the refugees who have returned from Zaire, Burundi and Uganda are accusing people of complicity in the genocide in order to deprive them of their property rights. Despite widespread criticism from the Ministry of the Interior, international and local human rights groups, NGOs and the media, that the prisons are 'full' of innocent people arrested on account of their houses, little hard evidence has been produced.

The document states, without providing any evidence to substantiate the link between occupation of houses, false accusations of complicity in the genocide and imprisonment:

While implicating non-fundamental human rights, the problem is extremely serious because it has motivated other human rights violations (e.g. false denunciations for genocide resulting in prolonged detention), and negatively impacts the country's ability to gain the stability needed to begin the rehabilitation process which will hopefully lead to sustainable development.

Showing its limited approach to the political context, the Technical Cooperation Unit has identified as 'possible solutions':

The building of a significant number of housing units, at least enough to replace those destroyed in the war.

Do study on how best the property issue could be resolved.

Do study on use of communal courts and/or traditional system for property disputes.

Facilitate the creation of a workable governmental policy regarding land.

The links between the genocide and the destruction of property are far more complex. Houses were not 'destroyed in the war.' The houses of those targeted for elimination were demolished systematically throughout Rwanda. Everywhere in Rwanda, but particularly in the regions that have been the hardest hit by the genocide, namely Kibuye, Cyangugu and Gikongoro, it is virtually impossible to find a home belonging to a Tutsi that is still intact. The same is true of certain commercial property in towns as diverse as Gisenyi, Kibungo and Kamembe.

Most survivors of the genocide have nowhere to live. The government has had no alternative but to ask them to vacate the homes they have occupied, even though it cannot, for economic reasons, find them alternatives. Unfortunately, the emotionally-charged political controversy about the genocide and property issues has totally obscured this reality, preferring to focus exclusively on the property rights of the refugees. This is, in the words of one survivor, 'a double injustice.' It is particularly regrettable that HRFOR, which has been in Rwanda for more than six months, should appear so ignorant of the issues.

HRFOR's approach to the genocide highlights another major drawback of the mission, and of the UN human rights machinery in general, namely that it is working in isolation from other UN human rights initiatives concerned with Rwanda. René Degni-Ségui, an Ivorian lawyer and academic appointed special Rapporteur for Rwanda in May 1994, has made several visits to Rwanda since then. He has issued three public reports in which he has made a series of thoughtful observations and recommendations which have been largely ignored by HRFOR.

In his report of 11 November 1994 he wrote:

The special Rapporteur deplores the tendency to use the pretext of the current insecurity in Rwanda in order to trivialise the genocide and to justify inaction. To behave in such a manner is to take effect for cause. It's to forget that the genocide is, in large part, the cause of the insecurity.

In order to apply the right medicine to the Rwandese pain, it would appear indispensable to develop the correct diagnosis. Without ignoring current violations of

human rights, far from it, it is important to put them in their context and to look for their roots in order to try to 'dry them up' before it is too late. It is advisable, in effect, to act quickly and even very quickly, failing which there is the risk of becoming powerless witnesses to a second war and new massacres. It is to avoid such a catastrophe that these recommendations [ which he then listed] have been drawn up, addressed respectively to the Government of Rwanda, to governments hosting refugees and to the United Nations.<sup>4</sup>

Unfortunately, HRFOR has not heeded his advice. A monitor who has been in Rwanda since November said he had never heard Mr. Clarence, the head of HRFOR, make any reference to the genocide.

Out in the field we are always getting radio messages from Clarence asking us to investigate the case of someone who is said to have been beaten by the RPA. Every life is important and should be protected. That is one of the reasons why we are here. But I am scandalised by these messages from Clarence. Where does he think we are? For him the genocide is simply not part of the reality of Rwanda. He is here on a human rights mission. But I have never heard him make a reference to the death of hundreds of thousands of people. Because of that, he cannot understand why we shouldn't just walk up to a soldier who has lost his family and berate him for not doing this or that for such and such detainee. Such attitudes do not help our ability to protect those who need our protection. If we continue to ignore the genocide, we will contribute to instability in Rwanda.

Ignoring the genocide has not, however, discouraged the leadership of HRFOR from using "concern" about the genocide to preempt criticism from the RPF. In the words of Thomas, the monitors have been encouraged to use the genocide as "a cover" to forestall a hostile reaction from the RPF. "That way, the RPF will cooperate because they think the mission is here because of the genocide." Monitors were explicitly given this 'advice' in October and November at a time they were formally prohibited from doing any investigations on the genocide.

In a statement issued in February, HRFOR wrote:

The international community has a responsibility to assist Rwanda in bringing justice to a traumatized population. This is being done directly through collecting information on- and interviewing witnesses of the genocide as well as through the work of the International Tribunal.<sup>5</sup>

HRFOR's denial of the genocide has puzzled and angered many of the monitors. One of them commented:

I don't understand why we have done so little about the genocide. It is within our mandate. They only use it as a tool to have a presence here, to be welcomed. When they meet with government officials, they always put the emphasis on investigating the

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<sup>4</sup> Quoted in the report submitted by Mr. René Degni-Ségui to the United Nations Commission for Human Rights on 11 November 1994.

<sup>5</sup> Quoted in "Prospects and Activities for National Reconciliation in Rwanda", HRFOR/doc/feb 95.

genocide and say little about looking into the current situation. But in reality it is the other way around.

The only conclusion I have come to about the reluctance to work on the genocide is that there must be political pressure being exerted by certain countries who do not see it in their interest to have the full truth about the genocide made public knowledge.

Another monitor noted.

No one in my team seems to think the genocide matters as an ethical issue. Even the people who have done some limited work on it see it as a professional challenge, as a professional cap in their feather, something they can write articles about. It is not a moral issue.

But nothing makes sense here without an understanding of the genocide. With a few exceptions, most of the monitors cannot cope with the horror of the genocide. The desire to turn away is mainly unconscious. But it is there. They will do anything to avoid confronting it. Genocide shatters your confidence in the world. So people prefer not to think about it. But we won't do much for human rights in this country (or in the world as a whole) if we don't face the real problem, whether we want to or not, whether we choose to acknowledge it or not.

He went on to make a connection between the indifference to the genocide and the overall insensitive behaviour of many members of the mission towards Rwandese people.

Given what happened in this country, I am amazed that there have not been hundreds of thousands of people killed in revenge. But most of my colleagues do not see it that way. And I think it comes from the fact that they feel no empathy. And they feel no empathy because they do not see Rwandans as human beings like themselves. They do not see victims of the genocide, including soldiers, as human beings with a normal range of human reactions in the face of such a catastrophe. It is part of a pervasive lack of respect for Rwandans that characterises the behaviour of many of the people in this mission, attitudes that offend normal standards of human conduct. I keep asking myself how I would feel if I had lost all or most members of my family. You have to put yourself in the position of another human being if you are to come to an informed and sympathetic understanding not only of what happened, but what could have happened and what must be done to help Rwanda recover.

A few monitors who joined HRFOR precisely because of their concern about the genocide left in disgust shortly after their arrival. Others worked from within to encourage a more positive approach. In a letter dated 31 December 1994, two human rights monitors, Dr. Christian Scherrer and Patricia van Nispen, wrote:

The HRFOR could play a constructive role by supporting the coalition government in the reconstruction of a legal system, systematic investigations into the genocide, and by facilitating peace education and promotion of human rights.

This HRFOR is new...It is the first human rights mission independent from the peace keeping operation and run by the High Commissioner for Human Rights. It is not established because of the human rights violations by the current government, but because there has been a genocide killing as many as 1.2 people within three months.

Some representatives of UN member states seem to be willing to forget about one of the worst genocides in our century.

Currently we witness a cruel misapplication of law and justice by the international community. Some of the protagonists of such a policy act destructively, [are] politically short-sighted or even criminal, only helping those who do not want the present coalition government to succeed in its task of national reconciliation.

A monitor who worked in Kigali for several months said that she never received a complaint concerning the genocide. Kigali has a larger concentration of survivors of the genocide than any other region in the country. Not only did the city of Kigali itself experience several large-scale massacres -- at the parish of St. Andre's in Nyamirambo, the school of ETO and on the Nyanza-Rebero road. But survivors from all the préfectures live in Kigali. In addition, the city is within easy access by means of good roads to the préfectures of Greater Kigali and Butare which were both devastated by the genocide. The fact that the team of monitors in Kigali have done no work on the genocide, and that no survivor, survivor's association or local human rights organization, all of them based in Kigali, has considered it worthwhile to seek out this team's assistance is instructive.

Mr Hooghiemstra, a monitor who has focused his energies on making a villain out of the RPA (See following chapter), recognizes the impact of the failure to work on the genocide. The international investigation into, and prosecution of the individuals responsible for grave international humanitarian law and of genocide, perpetrated between the dates of 1 January and 31 December 1994 has lost its credibility in the eyes of the Government of Rwanda and of large sectors of the population, and, therefore, its relevance to being an element in providing a solution to the Rwandan internal situation.

The technical assistance to the Rwandan judicial system has not as yet begun to address the most pressing needs of the internal criminal prosecution system. Nor is there any evidence to date that these needs are being addressed by the international community with the requisite urgency.<sup>6</sup>

It is a sign of HRFOR's approach that at the end of March the monitors have not been asked to make any preparations for the first anniversary of the genocide, 7 April.

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<sup>6</sup> Quoted in a memo dated 2 December 1994 addressed to Mr. William Clarence.



## Monitoring Human Rights: Poor Professional Standards

### *Presenting the Evidence: Insufficient and Lacking Independent Verification*

Over the years, the international human rights community has gathered extensive experience of monitoring human rights abuses and gathering evidence for prosecutions for violations of such rights. Independent human rights groups, governments and on occasions the UN itself have been engaged in these exercises, and have monitored national police forces and judiciaries in their investigations and prosecutions. Quite rightly, high standards have been set and enforced.

One of the first tasks of HRFOR ought to have been to establish the highest professional standards for itself, in conducting its own investigations, standards which could then have been imparted to the government of Rwanda.

The standards of evidence used by members of the mission fall well below those that should be expected of the UN. Adam Stapleton, an experienced criminal lawyer who left HRFOR in a state of disgust at the lack of professional standards, described what passes for 'information.'

The operation is being run by amateurs masquerading as professionals. The team is not experienced enough or professional enough to do the job. What do I mean by that? Anything and everything is believed. No one asks for proof, for the evidence to substantiate serious allegations even though they know how political all this is.

For example, I remember a meeting in which a monitor came back from Butare and described Butare as a region "in the grip of terrorism." He proceeded to narrate some of the stories he had been told. The reaction around the table reminded me of my first year as a criminal law student. Everybody sat there saying "Wow, what a story," "Oh, my God." There were no questions about looking for the evidence. This is all the more important in Rwanda where a lot of the bourgmestres providing the information are very anti-RPA.<sup>7</sup>

Asiel Kabera, the préfet of Kibuye, described the Kibuye's team "information-gathering" process.

They have hired two local agents who spend their time standing at the main roundabout at the entrance to the town of Kibuye, on the road that comes from Kigali and Gitarama. They report what happened at the roundabout and collect the gossip they pick up from passers-by. In any case, the only thing that interests them is arrests. So they hang around the roundabout with the express purpose of getting gossip about arrests.<sup>8</sup>

Elizabeth, who belonged to the complaints unit, described her work.

We make a report of the complaint we receive. We transfer it to the team leader who is meant to do the follow-up which never happened unless it was something that was

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<sup>7</sup> Interviewed in London, 19 December 1994.

<sup>8</sup> Interviewed in Kibuye, 12 March 1995.



politically explosive. I feel ashamed because people come back to find out about the follow-up.

Nothing was ever done to verify whether these complaints were true. Though nothing was done to verify the information, the complaints were put into the system. We make a weekly report which includes every complaint. It goes to the team leader. He or she adds his or her comments. The desk officer then makes a summary of all the findings which he/she sends onto Geneva. At no stage through this funnelling process is anything ever done to investigate the allegations, to weigh up the evidence. It is a conveyor belt for anti-RPA material and that is all that matters. So we just pile it up.

The case that Mr Stapleton mentions concerns one of the most damning reports compiled about the human rights situation in Rwanda. It was written by a former leader of the Butare team and a lawyer, Mr. Ron Hooghiemstra. Several monitors who spoke to Mr. Hooghiemstra and his team members were told that the information came from one gendarme. The allegations, which have never been investigated by HRFOR, were summarised by Mr. Hooghiemstra in a memo, dated 2 December 1994 and leaked to African Rights in which he offered his resignation. He wrote:

The RPA on the ground is increasingly resorting to tactics which appear to be designed to terrorize the population, be it Tutsi or Hutu. Hutu intellectuals are being targetted for harassment, arrest and /or torture in some areas of the country. First-hand evidence demonstrates that this is being done arbitrarily of any suggestion that those persons affected are implicated in the recent massacres.

The RPA and the Gendarmarie in the country-side openly state, or clearly indicate by their behaviour, that they regard UNAMIR 11, international NGOs and the human rights field operation to be in league with the forces of the former Government. I have witnessed how the RPA and the Gendarmerie will manipulate situations and maintain falsehoods in order to interfere with the work of international organizations on the ground, and to cast aspersions on the bona fides of the international community.

Without citing a single concrete case, he wrote:

Open and clandestine killing of Rwandan individuals purported to be guilty of genocide or otherwise to be in league with the force of the former Government are the order of the day.

Mr Hooghiemstra continued, again without offering any evidence to underpin serious charges with far-reaching implications:

Should there be a direct military attack or a substantial guerrilla operation put into effect by the former Government forces, the RPA and the Gendarmerie will not hesitate to commence large-scale killing of the Hutu population and their perceived accomplices resident in Rwanda. This would be carried out in the interest of military strategy.

He only visited the refugee camps in Zaire once for the day, in October when he accompanied the Special Rapporteur. It has never been part of his responsibility to monitor the military activities of the former government and army in Zaire. Nevertheless Mr Hooghiemstra saw fit to state:

The conclusion appears warranted that they are also receiving indirect and direct support from France.<sup>9</sup>

Mr. Hooghiemstra was not asked to substantiate his allegations, let alone cautioned for such unprofessional conduct. On the contrary, Mr. Clarence asked him to rescind his threat to leave and promoted him to become the co-ordinator of the team leaders in the field. In a rare act of rebellion, the monitors refused to accept Mr. Clarence's dictat and his decision to reward Mr Hooghiemstra for what was widely regarded as unacceptable behaviour. The team leaders signed a letter protesting against the decision.

Mr. Hooghiemstra's unique approach to human rights monitoring has led to absurd moments. A new staff member joined SIU's helicopter expeditions to mass graves to alleviate the boredom of sitting in a hotel room in Kigali. She gave a hilarious account of a helicopter going around in circles. The team had received a radio message telling them to search for a new mass grave which, according to Mr. Hooghiemstra, contained victims of a massacre by the RPA.

We went round and round looking for this site. Finally the pilot radioed Clarence and said that we would soon have to return to Kigali as we were running out of fuel. An astonished pilot told us that Clarence had suggested the pilot descend and get petrol from a gas station in Butare.<sup>10</sup> In the end we stopped at a place in north Butare, Cyankizu I think. There we met a group of about ten people who knew nothing about a new grave site. Ron [Hooghiemstra] was annoyed, saying that he is sure the site existed but that the witnesses had been too frightened to tell us the truth.

Mr. Hooghiemstra went on to write a second memo, dated 27 February 1995, this time to provide "reasons" as to why the High Commissioner "may be forced" to condemn the detention of people accusations of crimes related to the genocide.

Mr. Hooghiemstra has since left HRFOR to join the UN human rights mission in Haiti.

#### *Endangering Witnesses and Detainees: The Lack of Confidentiality*

The lack of guidance and supervision, the inexperience of most of the monitors, the latitude allowed for personal interpretations of the mandate and the mission's unlimited tolerance for unprofessional conduct and poor judgement have exposed both witnesses and detainees to danger. This is all the more significant given the complete lack of structures in Rwanda to protect witnesses, a fact that has already led to the death of both survivors and witnesses, as well as constant physical attacks and psychological intimidation.

In December, the team leader of Gitarama visited the prison in Gitarama. He asked the detainees to fill out a form giving their name and giving details as to whether they had been beaten, tortured or subjected to ill-treatment while in prison. An official of the International Committee of the Red Cross (ICRC) found the forms which had been filled out on the desk of

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<sup>9</sup> Quoted in a memo from Mr. Ron Hooghiemstra to Mr William Clarence, dated 2 December 1994.

<sup>10</sup> Few gas stations retail aviation fuel.

the director of the prison. The ICRC protested to Geneva. This was not the only serious indiscretion on the part of the same monitor. In an earlier episode, a group of people had taken refuge in UNAMIR's compound in Gitarama. The compound was surrounded by the RPA. Oblivious to the presence of soldiers, he began to question those seeking refuge about what they had done during the genocide.

In an investigation into a massacre in the commune of Ruhashya in Butare, where the victims were said to have been killed by neighbours, one of the monitors interviewed three of the survivors in front of what a colleague described 'nearly half of the village.' Surprisingly, they did not find the witnesses forthcoming with information. A second and more private interview was subsequently arranged.

One monitor accompanied a member of his team to the gendarmarie to interview detainees arrested in connection with the genocide. To his surprise, his colleague began to interview the first detainee in front of the gendarmes, asking pointed questions about their possible participation in the genocide. He resorted to creating a scene outside the station in order to draw the gendarmes away from the interview.

One aid worker in Kigali told African Rights:

Our group recently gathered detailed information about an incident in which some of our staff were eyewitnesses. I went to report the information to the monitors. It is meant to be a confidential matter. But while I am in her office, the staff member started talking on her radio about the matter, mentioning the name of our organization. Her colleague who was meant to be investigating the same incident did not even bother to see me. He told his colleague over the radio that I should contact UNAMIR because he had completed his investigation and had handed the matter over to them.

Working in tandem with the military observers who are themselves criticised for their lack of confidential procedures, only compounds the problem. An aid worker complained:

Another problem with the military observers is the complete lack of confidentiality. As far as the NGOs are concerned, we know for a fact that they have been indiscreet with the information. I cannot say if they treat the local population with the same lack of discretion.

The reality makes a mockery of the claim by the High Commissioner that "the investigative work of the monitors will involve mostly collecting, in conditions of absolute confidentiality, witnesses' accounts and other evidence of human rights violations."<sup>11</sup>

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<sup>11</sup> Quoted in "Human Rights Monitors Can Help Bring Peace to Rwanda" by José Ayala Lasso, *International Herald Tribune*, 17 August 1994.

### *Arrests and Detentions: What Responsibility?*

The government of Rwanda has no alternative but to arrest those suspected of active involvement in the genocide. This is not only a legal obligation and a moral imperative but the only brake to the prospect of widespread revenge killings. The challenge for the government and people of Rwanda, and for the international community, is the urgency of mobilizing the human and financial resources to ensure that the guilty are punished, the innocent protected and the foundations laid for a legal, political and moral system that would enhance reconciliation and make another genocide unthinkable.

By necessity most of the arrests have been made by the RPA. There has been no other force to arrest people suspected of participation in the genocide. The 200-strong gendarmerie was not deployed in most préfectures until December 1994. The gendarmes are, for the most part, RPA soldiers who necessarily have limited experience as peacetime community policemen.

Instead of helping Rwanda move towards a system capable of responding to this crisis in a fair and efficient manner, the United Nations Human Rights Field Operation in Rwanda appears more interested in extending pre-emptive blanket immunity to potential killers. It is one of the supreme ironies about HRFOR that the refusal to confront the reality of the genocide has made a number of monitors into protectors of the men and women accused of mass murder. News of arrests are generally greeted with an incredulous shrug about the 'continuing arrests of innocent people', an attitude that makes sober, informed judgements about the arrests and an objective assessment of the overall situation impossible.

In numerous interviews with African Rights, the principal human rights concern raised by monitors concerned what were invariably termed 'arbitrary' arrests. The use of the word 'arbitrary' is important and carries considerable confusion between its strict legal sense of 'not in accordance with the full norms of due process' and its lay sense of 'indiscriminate or random.' HRFOR's official documents use 'arbitrary' in the legal sense. Referring to the arrest of over 20,000 people in connection with the genocide, the Comprehensive Programme of Technical Cooperation in Human Rights for Rwanda gave the following analysis.

Almost all of these individuals have been arrested in a manner that does not conform to Rwandese law. This is very problematic, for this means almost all arrests and detentions have been arbitrary.

But HRFOR staff use the term 'arbitrary' much more freely. Asked how they knew if the arrests were arbitrary, not a single monitor was able to show that they, or any member of their team, had conducted painstaking research into individual cases, interviewing the victim, accusers, independent witnesses, visiting the site of the alleged crime etc... More often than not, the "evidence" amounted to the fact that the detainee was a well-educated local government official or a local employee of a UN agency, an international organisation, NGO or UNAMIR, or their relatives and close friends. Having an educated background appears to be taken as evidence that such detainees do not, in the words of one UN official, "have an aura of criminality." It reflects the elitism of HRFOR that complaints and interventions about arrests usually concern local government officials and the local staff of the UN and NGOs, and rarely uneducated peasants.

Judged by the peace-time standards of prisons, courts and police stations in Switzerland, the US or the UK, it is beyond dispute that the written evidence against many detainees is poor. That may be evidence of innocence, or it might reflect the lack of the human and financial resources necessary to undertake an in-depth investigation and prepare the evidence in a more professional manner.

This can potentially lead to serious legal problems, as HRFOR has pointed out:

These soldiers have made these arrests without the benefit of extensive training or experience in the field of criminal investigation...While such arrests derived from the circumstances, there is little, if any, legal support for these arrests. The Arusha Accords do provide additional powers to the National Gendarmerie to assist in the development of the investigation, but the fundamental procedure of obtaining an arrest warrant from the prosecutor before actually taking the suspect into physical custody still is binding.

The procedural defects in almost all the arrests to this point, could create a number of problems for the prosecution that potentially could seriously undermine the effort and result in de-facto impunity for the killings.

With no functioning legal system, all arrests, by definition, are illegal under international law. The responsibility of HRFOR and the promise it held out was to help Rwanda move towards a functioning legal system that would protect the innocent. Instead, the mission has devoted its precious resources, time and authority to sniping at the government of Rwanda, and drawing attention to the fact that Rwanda, like any other country in the world, has no investigative or judicial system capable of responding to the challenge of bringing to justice those responsible for the genocide.

HRFOR was conceived in recognition of the fact that Rwanda has few men and women with the necessary qualifications and experience and that it lacks the infrastructure and the resources. A major responsibility of HRFOR is to help provide that assistance. It has not succeeded. In fact, HRFOR is obstructing what efforts are being attempted by the Government of Rwanda, and hence setting back the objectives of justice and political stability. HRFOR's credibility has sunk so low that many Rwandese regard it as little more than a defence team for the accused.

#### *Protecting Possible Killers*

Basic judicial principle demands that a suspect is innocent until proven guilty. Nothing undertaken by any judicial authority in Rwanda should obscure this fundamental principle. However, the extreme slowness in establishing the International Tribunal, the exclusion of investigating the genocide from the mandate of HRFOR, and the limited resources available to the Rwandese judiciary and police, mean that the prime danger in Rwanda is that many, many people guilty of crimes against humanity will never be brought to justice. HRFOR has compounded this problem by devoting much of its time and resources to a meticulous--and sometimes overmeticulous protection of the rights of those accused of genocide. In the politically sensitive atmosphere of Rwanda, this has meant that the mission often appears less than fully impartial: the prime human rights activity of the UN, with its massive resources, consists of protecting alleged killers.

Those accused of crimes have rights. But HRFOR has no right to interfere in the due process of the Rwandese investigative and judicial system. However, that is what it does. One case occurred in Kibungo in December. In an interview with African Rights, the préfet of Kibungo, Protais Musoni, narrated what happened.

An unknown person in Kigarama shot the escort of the commanding officer of Kibungo, wounding him in the hand. We launched an investigation. Several people were arrested. One of them was a man called Majyambere who took refuge in the compound of UNAMIR. The next thing I know, the UN human rights team leader came to see me. She told me that they had reason to believe that the bourgmestre of Kigarama killed people. I agreed to set up a commission of inquiry into the allegation. She came back to see me, saying there was a witness who had information about the bourgmestre. He was ready to talk but only to me, the préfet. I agreed to see him.

In the meantime, the préfet left for Kigali.

While I was there, one other person was arrested in connection with the shooting incident. He testified that it was in fact Majyambere who had shot the escort. As a result, the commanding officer of the army and the commanding officer of the gendarmerie went together and asked UNAMIR to hand Majyambere over to them. UNAMIR agreed, on condition that he was handed over to the prosecutor in the presence of the International Committee of the Red Cross and that UN human rights monitors could visit him every day. The commanders consulted me. I said 'Fine.'

The next morning the human rights monitors asked me to provide them with escorts to take the suspect to Kigali. I was surprised. We had already reached an agreement. In addition, he was accused of crimes in Kibungo, not Kigali. Later in the day, I learned that the human rights monitors had made arrangements with UNAMIR to bring a special helicopter to take him to Kigali. They said they had obtained a letter from the Minister of Justice. I went to Kigali and learned they had obtained the letter by telling the Minister that the bourgmestre of Kigarama and I were colluding together. I explained the situation to the Minister; he told them to return the suspect to Kibungo. Still, the monitors have done nothing to return the suspect to Kibungo.

In a letter to the Minister of Justice, Mr. Yohani Batisita Mushumba, the prosecutor of Kibungo, has used this incident, amongst others, to question the competence of the team in Kibungo.

Another example we can cite is that of Majyambere of Kigarama commune, Kibungo préfecture, who also took refuge in UNAMIR in Kibungo before being hurriedly transferred to Kigali without any file being opened on his case in Kibungo when he had evidently taken part in the genocide. On 26/1/1995 in the company of senior staff of the human rights group, we went to see them over that issue and agreed with them that they would transport Majyambere back to Kibungo to enable me to complete his file, but to this day they have never brought him.

The incident distressed many members of HRFOR. It led one of them to ask:



What on earth do we think we are we doing? If the RPA believe that they have sufficient evidence to arrest this guy on charges of genocide, who are we stay in their way and insist they cannot do so? What we can do and should have done is ensure the follow-up. But no. Trust the mission to go out of its way to give the impression that we are interested in protecting people who might be murderers. This was a dangerous precedent.

This incident prompted UNAMIR to formulate guidelines. The new rules stipulate that the RPA should be informed that the suspect will be handed over to the relevant prosecutor. But the guidelines were not sent to most of the field offices until early March. In the meantime, there was another embarrassing encounter in Kibungo.

A new team leader, Tierno, arrived after the Majyambere incident. The deputy chief of HRFOR visited Kibungo and met with the préfet who learned that a second suspect had escaped into the custody on UNAMIR. Unfortunately, it was to become apparent that HRFOR had learnt nothing from the earlier episode. The préfet described what happened.

I asked Tierno to hand back the suspect, Férdinand. He told me that he had put him in the custody of the Ghanaian battalion in Kibungo. I asked him to do his job and transfer him out of UNAMIR into the hands of our prosecutor. He told me he was too busy. The next day, I spoke to the commander of the battalion. He told me that he did not know anything about this suspect. The commander spoke to Tierno and found out that he had not told me the truth. We arranged a meeting between all of us to discuss this on a Monday. It was changed to a Wednesday. On the Wednesday, we learned that Tierno had gone for a holiday to France.

Another member of their team attended the meeting. This time they changed their story. We learned that the human rights team had let the man go. They did this before the investigations were completed. They told us that they had decided they could not look after him. And they thought the appropriate thing was to allow him to walk away. We asked them 'How could you allow a man accused of serious crimes to walk away before an investigation has been completed?' And this happened after I had met with the deputy chief and he had assured us that there would not be a repeat of what happened with Majyambere. When Tierno returned to Kibungo, I told him to leave the préfecture. We cannot work with people who cannot keep their word.<sup>12</sup>

The monitor in question, Tierno, was not fired. Instead, he was recently appointed as team leader of Gitarama.

Nor is Kibungo the only préfecture that has complaints. Worried about local assistance to infiltrators from Zaire, in early March the préfet of Kibuye asked all residents of Kibuye to obtain a certificate of good conduct from their bourgmestres. A group of twelve women who did not want, for whatever reason, to try to obtain these certificates, took refuge in the UNAMIR compound in Kibuye, saying they feared RPA retaliation. The préfet spoke to UNAMIR which refused to hand the women over. UNAMIR was itself new in the area and they were unclear as to what they should do. They had to call Kigali. The préfet returned, this time accompanied by the military commander and soldiers. UNAMIR then called in the ICRC and the human rights monitors, asking them to register the women before they were entrusted

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<sup>12</sup> Interviewed in Kibungo, 22 March 1995.

to the préfet. This was done openly, in a tense stand-off between armed UNAMIR soldiers and armed RPA soldiers. The préfet sought to send a fax to Kigali which UNAMIR refused to transmit, saying it was written in Kinyarwanda and they did not understand its content. (It is impossible to believe that UNAMIR in Kibuyè has no interpreters). Subsequently, a furious préfet went to Kigali and gave interviews on the radio that were sharply critical of both UNAMIR and the monitors.

What this particular instance demonstrates is the danger of human rights monitors becoming too closely identified with UNAMIR and the failure to ensure that the monitors in the field have clear guidelines.

In a more recent incident in Gitarama, a group of people sought refuge in the office of HRFOR. There was only one monitor in the office. He telephoned Mr. Clarence for guidance. Mr. Clarence told him to come to Kigali for discussions. The monitor pointed out the urgency of taking a decision since the people were physically present in his office. Mr. Clarence reportedly hung up, wishing him good luck.

Unfortunately these are not isolated incidents. There are other cases with even more serious consequences. In a recent case, human rights monitors pressured the RPA to release a detainee, formerly the president in his sector of the ultra-extremist party, the Committee for the Defence of the Republic (CDR). The monitors argued that the evidence accusing him of participation in the genocide was too slender. They did not know anything about this man's past, his behaviour during the genocide or his conduct since. They had not undertaken their own thorough investigation into the accusations. They used the argument that his wife and children had remained in Rwanda as further 'evidence' of his probable innocence. The RPA relented and released him after which he immediately fled to Zaire. This man is now suspected, both by human rights monitors and the RPA, of being behind the recent murder of nine people in his commune, as well as involvement in a string of other murders in the same commune. Fearful that the killings would be tied to him, his family has now also left the country.

Mistakes can be made and this incident might simply reflect poor judgement. But as a monitor concerned about the wider implications pointed out:

Neither the team nor the head of the mission has taken the matter seriously. There is a very strong chance that HRFOR not only insisted on the release of a man guilty of genocide, but a man who has since caused the death of many individuals. What it shows is that there is no recognition of the gravity of the situation and of our responsibilities in general.

#### *Fieldwork: The Magic of Going on 'Patrols'*

The focus of HRFOR's current work in the field is going on 'patrols.' The exact purpose of these patrols is not clear to the monitors who spoke with African Rights. The exercise is even more questionable given the fact that the MILOBS, UNAMIR's civilian police force as well as the armed battalions of UNAMIR such as the Ethiopians in Cyangugu, the Zambians in Gikongoro or the Tunisians in Gisenyi conduct investigations into current incidents.



Monitors described their role of amateur policemen as an unnecessary duplication of the work of the MILOBS. A monitor who served in several préfectures commented:

We are expected to rush there as soon as an incident is reported. But what for? We are not policemen. It is the MILOBS' job to go to the scene; we add nothing by being there. It would be sufficient for us to await the MILOBS' report and then, where appropriate, to do a lawyer's job.

After weeks of doing nothing in Kigali, Mark was finally assigned to the field. Grateful to put weeks of uncertainty and boredom in Kigali behind him, he set out on what he hoped would be an enriching experience that would allow him to make a contribution to human rights in Rwanda. He was to be sorely disappointed. With a mixture of bitterness and laughter, he gave an account of his experiences that would have made a fine script for an unreal comedy.

I stayed in my préfecture for three days. I would say it was more like a picnic than work. We had good accommodation and shared some enjoyable meals with the military observers. We did nothing, absolutely nothing. The only people we met were UNAMIR peace keepers and MILOBS, people who were not useful for what we should have been doing. The préfet was not around and we did not see any of the bourgmestres. Mission accomplished, we came back to Kigali.

A few days later, the team returned to their region. This time they had an introductory meeting with the préfet.

Apart from this meeting it was another picnic. We were like a group of boy scouts. At no time and at no stage did we do anything on our own. We were always in a group. It is as if we can not be trusted to function on our own. All it means is that four people are doing what one person can, and was hired to do. And don't forget this is an emergency operation, so much so that the chief of the mission left for a four-week holiday in the middle of this mess.

By now it is the end of 1994. Never mind that we are in Rwanda; we had to follow the schedule of Geneva. From 24-27 December and from 31 December-2 January 1995, the entire human rights operation was on holiday. And this is an emergency programme. Other people in Rwanda were working of course. But the UN human rights field operation was empty. I decided to take the time in between off as well. When I returned, I realised that no one had noticed my absence except the head of my team. By now, I was entitled to much more than US\$10,000. And the honest truth is that I had accomplished absolutely nothing. I had wasted my time and other people's time. And I had done nothing for the Rwandese people who had expectations of us.

At the beginning of the year, Mark returned to the 'field.' The comedy of errors continued. "This time we went on a patrol." Asked what constitutes a patrol, he replied:

That is a good question. Being on a patrol involved going up the mountain for the purpose of sightseeing. We then sat down for half an hour with a missionary. Then we spent half an hour with a bourgmestre.

By now I had become thoroughly disgusted with this team and asked to transfer to another team where I hoped I would find more experienced people who could teach me something. I came having no experience in human rights. I had been taught nothing

and the people I was working with were not in a position to teach me anything. It was the first mission abroad that our team leader had ever done. And yet I was expected to go out to the countryside in Rwanda and 'teach' human rights monitoring. I was refused permission to transfer.

Mark described the monitoring routine in his préfecture in the following terms:

In the morning, we would try to see one or two officials. Government officials had no idea as to when we would be coming. [There are few telephones in the region]. So when we just turn up at their offices, often they are not there. After that, we were normally invited to have lunch with the military observers or one of the missionaries. We would then come back to our lodgings. We would then take a long siesta in the beautiful setting of where we lived. It was the best accommodation I ever had. After our siesta, there was what I would call a collective psychotherapy session among the team members. Everyone would then say what he or she went through that day. Then we would have a nice dinner and then to bed. I should add that everyone in our team who is having to spend his or her time in this fashion is a university graduate. My time in the field was a good chance to put on weight.

He tried to talk to his team leader as the situation became increasingly intolerable.

I told him 'Listen. You don't know how to do this job and I don't know how to do this job. Let us at least talk to the local people and find out their expectations of us. Let us be guided by that.' He replied 'I know how to do this job. I have been doing it for two months.' In other words, after two months of leading the life I have just described to you, this man was 'expert' enough for the job. This man is not a lawyer, he has never worked in human rights and it was his first field trip outside his country. His previous work experience was in the field of development which is hardly relevant.

Mark was then 'promoted' and given the responsibility to deal with the internally displaced people in his region. A vehicle to take him to the site where the displaced people lived would have been helpful. It was not provided. As a result, he spent a day looking at one of the beautiful sights of Rwanda. He declined the request to make a written report of about his aborted 'visit' to the site. Then all of a sudden, there was pressure to be seen on the ground 'monitoring' the situation. The deputy chief of mission was due to visit their préfecture. 'Deployment' became the order of the day.

We were told that everybody must be out on a patrol so that we could show him we were being 'deployed.' However, there was a small problem. The team only has two cars and one of the cars had gone to collect the delegation. And it would not do if the whole team appeared to be deployed in the same spot. Fortunately for us, the deputy chief himself never turned up. Still, the rest of the delegation could watch me monitor human rights. This consisted of observing an ICRC food distribution. I could report that I saw people scooping out their food peacefully. Otherwise there were no incidents. In addition, we saw the bourgmestre of the commune and translated a question put to him by a MILOB who did not speak French. Apart from this question to the bourgmestre, which did not come from us in the first place, we did not speak to a single Rwandese.

From a human rights point of view, we achieved nothing. But of course that was not the point. The aim was to get out into the countryside to show the deputy chief of mission that we were doing something. This was my 'best' patrol. It was the patrol which made me decide to quit the mission. We spent six hours in a car. For what? I am ready to break my back for something useful. But not for this.

There was, however, one more patrol that Mark attended. This outing was even more eventful.

We met one guy who told us he was on a list of people to be arrested. He was hiding from the army. He told us that he had remained in Rwanda precisely because he was innocent. This of course did not mean anything. Together with this guy and the peace keepers [It is not clear if this refers to UNAMIR troops or MILOBS], we had a nice lunch. Both the préfet and the bourgmestre were in a meeting. Afterwards the monitors went back for a nice siesta.

As far as doing anything for this man who feared arrest, all we have been asked to do is to write up the relevant information in such cases. It is not within our mandate to stop arrests. All we can do is to ensure that the army is arresting correctly, to let the authorities know that we are aware that this person is in their hands. If we are attentive, all we can do is to ensure that this person is alive. But given the absence of structures to ensure follow-up, even that is asking for too much. Much depends on the calibre of the team leader; in my region we never even undertook prison visits. We were not even aware what detention centres existed.

The second patrol finally proved too much for Mark and he hitched a lift back to Kigali in the car of an NGO.

According to the regulations I should have been fired for 'abandoning my duty station.' I was hoping to be fired. I told the deputy chief of the operation that I was sick of scout outings. I asked for another team. He told me that my team leader did not want me back. And yet he insisted that I return to my préfecture. He said that since twenty monitors had asked to change their teams and he could not change them all, I had to remain with my team. He asked me to be humble and shake hands with my team leader. I pointed out that even if the two of us shook hands, there was no work to be done. He told me to be patient and see the rest of my contract through.

The biggest joke is that the deputy chief told me in late January that 'This is the best team. And the team leader, despite his minimum experience, has built up a very good reputation.' If this is the best, can you imagine what the worst must be like? In the meantime, more monitors will be sent. Whether they do something or not does not seem to concern Geneva.

Mark's team consisted of seven people. Despite limited qualifications, experience and achievement in the field, they were generously paid. The average income is \$6500 per month, tax-free. The average annual income of the monitors is \$33,000-\$44,000, tax free. They had two brand new cars at their disposal, a Land Cruiser and a Land Rover. Even though there was no office, the team had imported two office kits which contained the necessary supplies for a mobile office. The supplies were sent from Geneva when they could have been bought for a fraction of the cost in Nairobi and transported by UNAMIR.

*The Preferred Model of Patrolling: The Para-Military Style of the Gisenyi Team Leader*

'James Bond', 'Rambo' and 'Colombo' are regularly used to refer to Oskar Lehner, team leader of the Gisenyi team. His militaristic approach to human rights monitoring is the model Mr. Clarence appears to want other teams to emulate.

In mid-December, UNAMIR and the RPA mounted a joint operation, Operation Hope, to arrest people suspected of participation in the genocide living in a camp for displaced people in Kibeho in Gikongoro. The incident is a good illustration of the lack of clear and coherent policies of HRFOR. Adam Stapleton, the leader of the Gikongoro team, opposed the involvement of HRFOR in the operation. But in one of the most bizarre incidents, the team leader of Gisenyi, Oskar Lehner, turned up wearing the military uniform of the Austrian MILOBS. Wearing his uniform, he proudly boasted to colleagues that he had ordered the soldiers to loosen the handcuffs of the detainees. The sight of a UN human rights monitor wearing military uniform and giving out military orders appalled his colleagues. But Mr. Clarence and his deputy failed to take action against Mr. Lehner. In the eyes of many monitors it was the proverbial last straw. One of them commented.

Those of us who were there and saw this charade were embarrassed. How could nothing have been done? Well, it wasn't, showing that nobody takes this work seriously. It is not a game though they treat it like that. How could Clarence not see that the incident was a profound insult to the office of the High Commission?

Despite the presence and agreement of UNAMIR in Operation Hope, the leader of the Butare team insisted that the arrests were arbitrary. He demanded that the 46 detainees should be transferred out of Butare and returned to Gikongoro in order to have arrest warrants obtained on their behalf.

Another embarrassing incident occurred in Gisenyi in mid-February. Mr. Lehner arrived on the scene where groups of people were looting trucks belonging to the World Food Programme of the UN. Whatever the rationale for his presence, there was no obvious justification for his decision to pick up a stick with which he then beat the people looting the truck. There were RPA soldiers on the spot, as well as MILOBS. The problem of law and order is their responsibility, not that of HRFOR. Mr. Lehner proceeded to take pictures of people without seeking their permission. An angry crowd then chased him. This remarkable spectacle came to an end after a Rwandese woman put herself between Mr. Lehner and the crowd.

This was perhaps a new 'first' for Rwanda: there has never before been a recorded instance of a UN human rights monitor assaulting civilians with a stick. However, there is no evidence that the incident was investigated, let alone that any disciplinary action was taken, as one might have anticipated. On the contrary, Mr. Lehner has since been promoted. Mr. Clarence has asked him to go to other préfectures to 'teach' monitoring to other teams, has sent monitors to Gisenyi to learn from him 'on the job' and has put him in charge of teaching monitoring to the forty new monitors who arrived in mid-March.

In another adventure, Mr. Lehner turned up to 'investigate' a murder. He was proud of the fact that he had arrived on the scene ahead even of the gendarmes and UNAMIR's civilian policemen. There was no reason for Mr. Lehner to be there. But that did not matter. It was,

doubtless, 'dangerous and exciting.' Playing the part of the American TV detective, Colombo, Mr. Lehner took photographs with his Polaroid camera. Gisenyi does not possess a forensic police investigations department. Nor were the photographs taken for the purpose of allowing the gendarmes, who did not have a camera, to keep a record. Under the circumstances, it is not clear what was the purpose of the exercise.

Mr. Lehner's style was illustrated when he circulated a memo, most likely in jest, recommending his latest paramilitary investigation, underwater patrolling to dig up victims of the RPA. To the astonishment of HRFOR, an official at the Centre for Human Rights took the request for underwater patrolling equipment seriously. Unable to believe the response from Geneva, one monitor commented "I have no doubt that Oskar enjoyed trying to dig up dirt on the RPA underwater. But Geneva's response shows how completely in the dark these people are."

### *Prison Work*

The teams in the mission have a prison unit. Their work is to verify that the people mentioned in the complaints received by the mission are indeed in prison. Most of the cases brought to their attention concern employees or the employees of the UN, international organizations and NGOs. Of course this is a help to their relations who are not in a position to visit their detained relatives on a regular basis. Prison visiting is not directly related to establishing the guilt or innocence of the prisoner. Instead it is a procedure designed to minimise the possibility of abuse in prison and to maximise the welfare of prisoners and ensure that they (and the warders) are aware of their respective rights and duties.

One monitor pointed out the missed opportunities.

If we were doing our job right, we would use our visits to prisons as part of our confidence-building responsibilities. There is a lot of fear and rumour associated with detentions. We should do spot checks in order to deter ill-treatment. In addition, there should be individual cases that we follow on a regular basis. We should ensure the necessary follow up by visiting their relatives on a regular basis, giving them news of the detainee and using our information and our overall assessments to talk to the authorities, as well as to spread the word that it is not the end of the world to be in prison, allay their anxieties. That way we back up the work of the ICRC. It should not just be the ICRC which talks to the authorities about ill-treatment.

Unless we are prepared to examine the cases thoroughly ourselves, it is inappropriate for us to go in, saying to the authorities 'Tell us if this person is guilty or innocent.' Given the circumstances, what we should be doing is to say 'What can we do to help you? How can we assist in this investigation so that it is done professionally, speedily and in the interests of justice?' But that is not how we are encouraged to approach our work.

### *Writing Reports: For Whom and For What Purpose?*

A substantial amount of time is devoted to writing up weekly reports that must be fitted into a strict formula. New forms are continuously being produced. No flexibility is permitted.

Information must be provided in conformity with the latest formula. The forms have become more and more focused on quantifying current abuses. According to a memo dated 27 February, the latest format requires information on the following:

1. Human Rights Situation in the Sector

A. Genocide

B. Violation of the right to life: extra-judicial executions and suspected deaths

C. Violation of the right to integrity and security of person

D. Violation of the right to property

E. Violation of the freedom of expression and association

II. Internally Displaced Persons (IDPS)

III. Violations Against Returnees

IV. Violation of Children's Rights

V. Prisons and Detention Centres

VI. Technical Assistance

Rehabilitation of the judicial system

Human rights education

VII. Relations With Authorities

A. Military authorities

B. Civilian authorities

Judicial

Administrative

C. NGOs

Local NGOs

International NGOs

VIII. Impact of the Mission;

Each team is also requested, on a weekly basis, to record the number of human rights officers and United Nations Volunteers in the team, the number of vehicles on the road and "other pertinent logistical details." They must also provide:

\* Standard chapter on general developments affecting human rights situation;

\* An account of the human rights situation and give the details of four or five major incidents that exemplify particular trends in the préfecture and/or in the country during the week;

\* There must a full account as to what action has been taken by the HRFOR on each incident and if no action has been taken, an explanation of why not.

In addition, there is another weekly form which requires the following information. Monitors are expected to fill out both forms.

Person making the report:

Number of team members

Location of field offices

Communes, Villages Visited

Number of Visitors

Number of civilian Interviews

Number of cases of human rights violations reported to the team

Summaries

Security Issues:

NGO Issues;

Misc. Issues:

Logistics:

Equipment Issues:

Personnel Issues:

The reports are submitted to the team leader who sends them to Kigali which sends them onto Geneva. No one understands the purpose of these reports. One monitor explained why she regarded the forms as a waste of time.

I report as little as possible because I don't understand why we are asked to do these reports. Yes, sometimes there is feedback from Geneva telling us to focus more on this and less on that. But so what? I still do not see the purpose that is served by writing these reports. Who reads them? Where does the information go? Who uses the information and for what final objective?

Another monitor who complained to his team leader about the time-consuming nature of filling out the forms was advised 'to make up whatever you want. After all, no one reads them.'

### *Political Bias*

In February, a journalist with the newspaper *Le Messager* was beaten up in a bar in the Nyamirambo district of Kigali. The same week, a survivor of the genocide in Gikongoro was murdered, also in Nyamirambo, after he informed some residents of the area that he had recognized killers from Gikongoro who had taken refuge there. The mission took no notice of the death of the survivor. But intense attention was devoted to the journalist who was beaten up after a series of libellous articles against a range of individuals as well as a number of virulent anti-RPA articles. A monitor who watched the UN scramble to 'protect' this journalist recorded her reactions.

Three UN monitors worked on the case. There were also UN military observers who were focused on it. There were even members of the UN Dutch forensic team who got involved. In those days the radio contact buzzed with concern with this case. No one dealing with the case had any idea what this man had written since the newspaper is published in Kinyarwanda. They never bothered to have the articles translated even though we have translators working for us. Since they all believed that he must have been beaten up by the RPA on account of his articles, and given all the fuss, some of us asked Rwandese contacts to translate them. In my country, and in the countries of most of the people involved in this operation, you could be sued for such articles. That of course does not justify beating the man up, whoever is responsible. But what he wrote, who might have an interest in retaliating against him did not matter. All that concerned them was to make the link between his criticism of the RPA and the beating. It is not within our mandate to protect people. So why were we protecting this man?

This case combines a number of the biases that have influenced the attitude of many monitors: (i) elitism (a journalist is more important than a peasant); (ii) sensationalism (a journalist is bigger news) and (iii) anti-RPA.



## **Confidence-Building: The Rhetoric and the Reality**

Confidence-building is at the heart of HRFOR's work for a very good reason. No aspect of its mandate can be implemented unless the mission has established a good working relationship with government officials at the national and local level, the military and the population at large. HRFOR cannot play a constructive role in encouraging the return of internally displaced persons or refugees to their homes unless it has the confidence of the authorities in Rwanda. It cannot promote the search for truth and justice with regard to the genocide unless it has established a relationship of trust with survivors of the genocide. It cannot contribute to building closer relations between the army and mistrustful sections of the population without enjoying the confidence of the military authorities. It cannot render meaningful assistance to detainees if it alienates the government and army, the very people who have the power to decide their fate.

Confidence-building requires political common sense and the courtesy to take diplomatic initiatives where the government is concerned. The High Commissioner for Human Rights is paying his first visit to Rwanda only at the end of March. The Kigali team which arrived in September/October, did not make arrangements to see the préfet of Kigali until 6 February. It is difficult to see how the mission can enjoy the confidence and respect of civilian or military authorities when they are barely aware of its existence. Unfortunately Mr. Clarence's reluctance to work with national leaders is mirrored at the local level where many team leaders have adopted the same attitude.

Mr. Clarence told a representative of African Rights in Gisenyi on 1 February that 'the government was pleased with the mission.' The government is in fact far from pleased with HRFOR. President Pasteur Bizimungu met with Mr. Clarence, in the company of the Special Representative of the Secretary-General, Mr. Shaharyar Khan, on 23 March. His sharp criticism of HRFOR was broadcast the same day on Radio Rwanda.

A senior officer characterised the approach of HRFOR to the government as 'all wrong,' and their understanding of political issues as 'limited.' He explained what he meant.

The few times they have contact with us, they want to give us instructions. We cannot accept that. If they were genuine about helping us, they should come and try to find out what we need. They should then conduct proper research and substantiate their findings, instead of running off with uncorroborated stories.

We see them in the field and we don't believe that most of them can teach us anything. They don't know what they are doing themselves. They don't cross-check their information before passing it on, even though the accusations are very serious. These alarmist reports go to Geneva and are sent onto New York. They are used to condition loans and assistance to Rwanda. What we see them doing does not help us; it undermines us.

They say they came to help build confidence in this country. How can they do that when the people running this operation do not have the self-confidence to come and discuss things openly with the government?

They talk about justice as if justice is the provision of desks and chairs. The fact that they take such a technical approach to justice is dangerous, for it is likely to facilitate the loopholes that helped to prepare the genocide. They say they are mainly lawyers. They spend a lot of time describing as arbitrary arrests they do nothing to help

us investigate and resolve. They keep urging the government to avoid congestion in the prisons and to speed up investigation and trials. They have been here all these months; what have they done to help us with this problem? The answer is nothing. With all their expertise and resources, they have not completed any cases. More than a million people died. The number of people who must be arrested in connection with their death is necessarily high. Instead of wasting resources as extravagantly as they do, why don't they give it to the government which could use the assistance to improve arrest procedures and conditions of detention? They don't share resources or information with the government. At the end of the day, the government is forced to do what it has to do without the manpower and resources it needs. And then they criticise us.

The reaction of most monitors to arrests shows the limitations in their understanding of the situation here in Rwanda. They say there is insecurity because there are arrests. They see security only in terms of a particular detainee. Given the genocide, the reality is that there would be even more insecurity if there were no arrests. In thinking of the detainee, there seems to be no pity for the people who this person might have killed. They are very concerned about the internally displaced. But they never come to talk to us about the survivors of the genocide. Instead, they shelter people who are charged with participation in the genocide. Certain criminals are using them strategically. How can they say they are contributing to security when they have even sometimes shifted suspects accused of genocide from one point to another, so as to help them escape?

Most of them don't have a clear idea of what their mission came to do in Rwanda. So how do they come to this country as human rights experts to teach us? Teach us what?<sup>13</sup>

Beyond the issue of respect and good manners, an open and constructive relationship with various branches of the government, including the Ministry of Justice, the gendarmes and the staff of the Ministry of Defence, would appear a matter of enlightened self-interest. A deeper understanding of security issues would help HRFOR fulfil its mandate. Relying on UNAMIR alone might explain the limitations that are apparent in HRFOR's appreciation of the political/military situation in Rwanda and in neighbouring countries.

The lack of respect for governmental authorities is most apparent in Kibungo. In an interview with African Rights, the préfet, Protais Musoni, gave many examples of the insensitive and undiplomatic behaviour of the team in Kibungo. Recently one of the monitors, Mario, threatened to imprison the councillor of Kigarama, after a quarrel about the fate of a man accused of having participated in the genocide.

Puzzled, the préfet asked:

Can you imagine UN human rights monitors threatening to imprison people? And the man doing this proudly tells us that in addition to being a human rights monitor, he is a member of the UN Commission on Human Rights.

To the chagrin of local government officials, this scene took place in front of members of the public aghast at what they considered insulting behaviour towards the councillor. Their reaction was to turn their anger against the suspect who they beat. An angry bourgmestre

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<sup>13</sup> Interviewed in Kigali, 26 March 1995.

imprisoned the suspect after which, in the words of the préfet, Mario went to the commune "in a complete state. I was told that Mario was beside himself, saying we had even decided to kill all Hutus etc..." The sous-préfet then brought witnesses to meet with Mario, some of the people who had accused the suspect of having tried to kill them during the genocide. At the time of the interview on 22 March, the préfet was still awaiting Mario's written version of events.

Against this background, it is perhaps inevitable that profound misunderstandings should arise from incidents that are small in themselves, rapidly degenerating into serious conflicts. The latest official to complain about the behaviour of the Kibungo team is the assistant bourgmestre of the commune of Mugesera. He was riding in a bicycle behind their car. For some reason this unnerved them and they decided to photograph him. A quarrel ensued after the assistant bourgmestre complained that they had taken his photograph without his permission. He insisted that they hand over the negative to him which they refused. The bourgmestre of Mugesera has forbidden Mario from his commune pending the return of the negative to the assistant bourgmestre.

The préfet is not the only official to register his protests. In a recent letter to the Minister of Justice, the prosecutor of Kibungo, Yohani Batisita Mushumba, wrote:

After observing the unbecoming conduct of some international organizations that operate in Kibungo, especially UNAMIR and the human rights group, it is now evident that these organisations are deficient, do not carry out their stated assignments but instead cause insecurity in Kibungo, or do everything in their power to create discord among various levels of the administration.

Mr. Mushumba then cited examples of people accused of complicity in the genocide who the team in Kibungo helped to evade the course of justice. (See section on 'Protecting Possible Killers' for details). He continued:

After seeing that some members of the human rights group in Kibungo cause insecurity in some of the communes like Kigarama and Mugesera where they terrorised the communal authorities to the point of threatening to imprison them...

After seeing that all those are indicators of the poor methods of work...of poor relationships between them and the other levels of the administration in Kibungo, both local government and the judiciary, and [seeing] the insecurity caused by them...Because of all the above reasons:

We do hereby request, Honourable Minister of Justice, that you, together with other heads of concerned government departments, that you adopt as a matter of urgency, serious measures against the representatives of those international organizations.

We request that the staff of the human rights group in Kibungo be withdrawn and be replaced by others capable of performing well.

Monitor after monitor asked the same question: 'Why are we so determined to work against the government, instead of working with the government?' Lillian, who held her head in her hands in disbelief during a long conversation, raised a number of pertinent points.

I don't see how we can achieve anything if we don't build relationships with the people of this country--the government, the military, local human rights organizations, local NGOs, the population at large. But how can we? My team leader has blocked everything that could come out of my building relationships with people. He has forbidden me from having contact with the RPA and is dismissive of contacts with Rwandese organizations and individuals. He regards any time spent with them as 'socialising.' How can I help to defuse crises, move things forward unless there is a process of talking. If I have not spent time building relationships with people, how can I understand what is holding progress back, where the problem lies? I cannot just walk into situations and immediately start criticising everything. But that is what I am expected to do.

In the words of one monitor, "The mission is dominated by what I would call a 'get the government' attitude." For some time now, the energies of HRFOR have been largely devoted to monitoring the current situation. There has been no sustained effort to help the government respond to the shortcomings it faces and to begin rooting out the causes of the problems. Instead, HRFOR has become almost exclusively devoted to making lists of current incidents. This is not only a distortion of the broader human rights context. It reflects a hardening institutional mindset that is so bent on discovering mistakes that it is not open to the search for solutions. Like many of her colleagues, Monique described this process.

In my view this mission is contributing to instability in Rwanda. If you spend your time making a database of incidents, you lose sight of the purpose of the work which should be to improve the situation. If something is wrong, we need to do more than find out who is responsible, whether it is the civilian authorities or the RPA. Of course we need to find out who is not doing their job in order to correct the situation.

But there are other questions which should be asked but which we don't ask. For example, I want to know: Have we actually talked to the person who is responsible? If not, why not? Does our failure to speak to them mean that we don't have a good enough relationship with them? If so, what is the reason for this? And what can we, what should we be doing about that? These questions are not asked because there is no sense that building relationships is a necessary step towards the resolution of problems.

She highlighted another obstacle to the constructive resolution of problems.

The refusal to give credit to the authorities for correcting mistakes is another obstacle. The mission is simply not interested in noting the actions that have been taken. How can it foster good relations to be so negative all the time? Why do we do it? It certainly does not help us to be effective.

One monitor who believes HRFOR cannot help the victims of current violations without helping to rebuild the machinery of justice pointed out her predicament;

I am having problems in moving things along. I am trying to ensure that the RPA, the gendarmerie, government officials at the préfectoral and local level and HRFOR are working together. But how can this happen when other members of my team are asked to devote their time to simply making lists of everything that the RPA and the gendarmes do wrong. Why don't we instead try to help them? The approach is not only

wrong in itself but does nothing to encourage military and civilian authorities themselves to work together.

#### *Delays in Becoming Operational*

The delay in opening offices has made it virtually impossible for the population at large to be aware of the existence of the monitors. Questions to a wide range of people throughout Rwanda about the work and impact of the mission usually provoked blank stares. Most people who were aware of HRFOR usually referred to their four-wheel drive cars.

As of mid-March, Kibuye, the préfecture most devastated by the genocide, had no office. The monitors operate out of the lakeside guest house which is located far from the centre of town. The team in Gisenyi was until recently based at the Méridien Hotel which is located in the most exclusive part of Gisenyi. Far from the city centre, it would be inaccessible to ordinary people even were they aware of the existence of HRFOR. The office in Cyangugu was only set up in early March. Until then, team members had worked out of their rooms in a guest house belonging to the Catholic church, on top of a steep hill that is miles away from the town centre in Kamembe. Until February there were no monitors in the préfecture of Greater Kigali, let alone an office.

As of late March, there were neither monitors nor an office in the region of Byumba. Since December, a member of the Gisenyi team has visited Byumba about once a week to work with the préfet and local authorities on arrest and detention procedures. Until recently the Butare team, instead of looking for an office, preferred to have the use of a meeting room in the compound of UNAMIR, behind high iron bars and guarded by uniformed soldiers. Outside Kigali, only Gikongoro made the establishment of an office a priority, because of the personal initiative of the former team leader, Adam Stapleton.

One monitor commented:

The population is not aware of our presence. How can they be? We have no office and our team leader refuses to make any effort to find an office. I asked to be given the responsibility to set up an office but my offer was turned down. Money is not the problem because we have the budget. We even have all the office kit wrapped up and waiting to be unwrapped. It is lack of political will, a reflection of the fact that we are not here to serve the local population. What are they expected to do? Come and knock on our bedrooms because that is where we work.

For several months the non-existence of offices was compounded by insufficient vehicles which hindered the availability of the monitors and hence their effectiveness.

The ease with which monitors are transferred from one préfecture to another at short notice, usually without any explanations, also undermines the network of relations they have built and hence their effectiveness. Monitors as well as government officials, representatives from international organizations and NGOs complained bitterly that the constant transfers made follow-up difficult. It also placed them in a difficult position vis à vis the local population. One monitor who was moved three times, each time without a stated reason, commented:

The speed with which people are shifted around is unacceptable for government and military officials, as well as the local population. You make promises to people which you then cannot fulfil.

Like others John resisted a transfer after he had invested four months in building up relations in one préfecture. The chief and deputy chief were unmoved by his argument that an abrupt move had negative professional and political implications for HRFOR. He reached the same conclusion as many of his colleagues.

Clarence has done nothing about building relations at the national level. So he doesn't see why we should bother with building contacts at the local level.

At the end of March, many monitors were concerned about the decision to transfer the most experienced member of the Butare team to become a 'protocol officer,' a post that had not existed.

## **Technical Co-operation Programme: Co-operation With the Government Dismissed As "Collaboration"**

The principal purpose for the visit of the High Commissioner, Mr José Ayala Lasso, is to seek funding to the tune of twenty-three dollars US\$23 million to support a two-year Comprehensive Programme of Technical Cooperation in Human Rights for Rwanda. This, he wrote in a letter of 13 March sent to potential donors, 'outlines the minimum requirements necessary to move Rwanda towards justice and reconciliation.' The heart of the proposal are projects to strengthen the administration of justice, to promote human rights education and to establish a legal defence project which will enable local non-governmental human rights organizations to provide legal aid to defendants.

An ambitious and technically impressive 50-page document has been prepared by the Technical Co-operation Programme of HRFOR and will serve as the basis of Mr. Ayala Lasso's discussions with donors. Discussions have already taken place in Kigali between HRFOR and western embassies.

In the 13 March letter, Mr. Ayala Lasso wrote:

Much attention has been properly focused on the rehabilitation of the justice system, however, the importance of human rights education can not be neglected. This comprehensive programme includes a component on human rights education projects for two years which are estimated to cost close to two million US dollars.

It has been proposed that a substantial portion of this aid should flow directly to the Rwandese Government in the form of co-ordinated bilateral and multilateral projects...It is essential that we respond urgently to the emergency situation in Rwanda. The programme provides a framework for donor intervention. Most importantly, my field operation provides the structure to allow resources to flow efficiently to those most in need, for example, those at the local governmental level.

The Technical Co-operation Programme is the one department of HRFOR that has made genuine and serious efforts to work with the Government of Rwanda, in the field of administration of justice and human rights education. The head of the Unit, Mr. Todd Howland, is one of the few qualified, competent and experienced staff members of HRFOR. He has worked doggedly in his efforts to mould HRFOR into an instrument capable of playing a constructive role.

But Mr. Howland is seen as 'obstructive' by those who see HRFOR as a tool to undermine the government's capacity to deliver justice to its people. In a meeting in January in Kigali, he made the 'mistake' of suggesting that the mission should share information about the genocide with the government of Rwanda. He was shouted down by a colleague who has since then devoted considerable energy to befriending RPA soldiers with the express purpose of finding out how much information Mr. Howland has 'passed on' to the RPA. On monitor commented.

In the eyes of the people who run this mission, and in the eyes of many monitors, Todd has committed a cardinal sin. He believes that HRFOR can, indeed must, work with the government.



That is how one monitor summed up the hostility that has undermined the one potentially positive aspect of the mission. To underline the efforts to marginalise the Programme, several monitors told African Rights that at least one senior official openly refers to it as the 'Technical Collaboration Unit' or the 'Technical Crap Unit.'

There is a responsibility to find creative means of supporting the positive aspects of the Comprehensive Programme, in particular its plans to provide practical assistance to the government in the form of transport, office equipment, the training of investigators, prosecutors and judges, gendarmarie, RPA, local government officials, rehabilitation of courts and police buildings and encouraging foreign investigators, prosecutors and judges to come and work on cases and to provide on the job training. Rwanda desperately needs this assistance and it needs it as soon as possible.

Unfortunately, the ability of the Technical Cooperation Programme to carry out these tasks cannot be divorced from the overall character of HRFOR. As HRFOR is currently constituted, there is every reason to believe that it will be a waste of donors' money to support the proposal that has been outlined. The lack of political direction, the lack of impartiality, the absence of managerial skills and most important of all, the refusal to work with the government and military in a constructive spirit make it impossible for the Technical Cooperation Programme to make a sustained, positive contribution. There might be a chance if there is a thorough overhaul of HRFOR and competent, experienced and responsible people are appointed to direct it at the political, substantive and managerial level. Until that is done, we believe that support of this programme will only delay the delivery of justice in Rwanda, thereby causing additional political instability.

#### *The Absence of a Political Context*

There are additional problems with the Technical Cooperation proposal as it stands. It is a technical document written in a political vacuum. The failure of the Technical Cooperation Programme to comprehend the consequences and the wider political implications of the genocide, as well as its disturbing analysis of current arrests and detentions have already been noted.

Several monitors who regard work on the genocide as a key priority believe that the emphasis of the Programme on raising resources has made it hostage to the powerful forces in Geneva and Kigali who are anxious sideline the issue of the genocide. One monitor commented:

Even if the Technical Co-operation Programme understands the wisdom of an integrated approach, the politics of seeking money in Geneva for their ambitious programme has forced them to postpone any focus on the genocide. So all these months that they have been trying to get Geneva to agree to their project, the teams in the field have been concentrating on current abuses.

The field representatives of the Technical Cooperation Programme have tried to work with local government officials, as well as the gendarmerie and the RPA to rebuild the administration of justice and to publicise human rights education. Unfortunately, their efforts



have been stymied by the lack of impartiality. As detailed below in the chapter on "Partiality, The Focus on "Nailing the RPA", monitors involved in this aspect of HRFOR complain that their chances of success have been scuttled by HRFOR's attitude of hostility to the RPA and the gendarmerie.

One of the suggestions for the future is to organize human rights education programmes for the armed forces and the staff of the Ministry of Defence. There are thousands of young soldiers in the army today who lost their entire families in the genocide. They have shown remarkable self-restraint. The call of their leaders for discipline will be heeded as long as these soldiers continue to believe that their government is committed to the imperative of timely justice. These are the same soldiers that the rest of HRFOR has been busy undermining. It is unlikely that the offer of HRFOR to hold 'seminars' for them will be taken seriously by the armed forces or the Ministry of Defence.

#### *Justice, Not Seminars: The Challenge of Human Rights Education*

A central feature of the work of the Technical Cooperation Programme and a theme that has been given pride of place in the proposal is human rights education. Under normal circumstances, the emphasis on human rights education would be appropriate. But the circumstances are not normal in the Rwanda of 1994/95. In the course of three months, more than a million Tutsis were killed in the most brutal fashion by their government, their army, their police force and their fellow citizens, including their colleagues and neighbours. During that period, the entire machinery of the state, both at the national level and the local level, was dedicated to ridding Rwanda of Tutsis, and of Hutus opposed to the political programme of hard-line extremists. In addition to the government, powerful institutions and social forces such as the leadership of the churches, became accomplices, either through direct participation or their failure to condemn and distance themselves from those perpetrating genocide. Every single profession is deeply implicated in the genocide of 1994. Teachers participated in the killings in massive numbers. Doctors, medical assistants, priests, nuns, academics, journalists, magistrates, judges, employees of UN agencies, international organizations and NGOs, killed and encouraged the killings. These are facts that cannot be denied or explained away.

Unfortunately, the Technical Cooperation Programme is either uninformed about or oblivious to the critical role played by educated people. The proposal talks of the role of NGOs and 'civil society' in carrying out the human rights education programme. 'Civil society' in Rwanda has not confronted its own involvement in the genocide. Unless and until it is prepared to do so, it is difficult to see how it can play a constructive and effective part in imparting the values that underlie the commitment to human rights--truth, justice and impartiality.

The genocide of 1994 was made possible by Rwanda's culture of impunity and silence. There have been prior massacres; in 1959, 1963, 1967, 1973. From October 1990 to early 1993, there was a violent campaign against Tutsis, regarded as the 'accomplices' of the Rwandese Patriotic Front (RPF) which left thousands dead. Rarely has any one ever been punished for these crimes. On the contrary, the key perpetrators have been rewarded with more senior positions.

Given this background, the emphasis should be, first and foremost, on justice. The most important lesson in human rights that Rwandese need today--the perpetrators, the victims and

those who stood by--is that violations of human rights will be exposed and punished severely. To achieve this objective, the energies of the Rwandese and of the international community should be focused on exposing and prosecuting the crime of genocide. Until that is done, it is difficult to see the value of seminars and publications that talk of the 'universality' of human rights standards.

The government of Rwanda needs substantial human and financial resources in order to respond to the crime of genocide and to build a judiciary that is respectful of human rights. It should get that assistance as a matter of urgency to help it stem the danger contained in the growing sense of despair and cynicism about the prospect of justice.

The alternative to HRFOR as a conduit for funds to the government which has been discussed among donors in Rwanda is the United Nations Development Programme (UNDP). This has several major drawbacks. Firstly, UNDP is an agency concerned with development issues. It has no substantive experience of human rights work. Mostly likely it would hire outside consultants and sub-contract the bulk of the work to the Geneva-based Centre for Human Rights, which is an integral part of the office of the High Commission for Human Rights.

Secondly, this is a choice with serious political implications. To entrust the rebuilding of Rwanda's administration of justice to UNDP is to treat the genocide as a 'development' problem. To put the investigation and punishment of the genocide on a par with the reconstruction of roads and bridges is profoundly disturbing. There is no doubt that this approach suits the many national and international actors determined to minimise the genocide. This is the very reason for rejecting it.

Finally, it is a process that involves a lengthy time factor. Apart from the Ministry of Justice, it will be necessary to involve both the Ministry of Planning and the Ministry of Rehabilitation. The delay is a recipe for political unrest.

While these bureaucratic discussions and decisions drag out, arrests of those suspected of involvement in the genocide will have to continue. In the meantime, the already inadequate number of prisons and detention centres will become seriously congested, with potentially dire consequences for the welfare of suspects. Some detainees will no doubt die from disease exacerbated by the overcrowding. At this point, there will be an international outcry and pressure for a general amnesty. The release of alleged mass murderers is not only wrong in itself; it will create an explosive political situation in Rwanda that will have important regional consequences.

Neither HRFOR as it is currently constituted, nor UNDP, is a satisfactory solution. The urgency of the situation is not a reason to be panicked into the wrong policies. Rather, it is a reason to act responsibly. African Rights believes that the best approach would be to constitute a working group comprised of representatives from the Ministry of Justice, local government officials, the military, police and prison authorities, practising lawyers, the Technical Cooperation Programme of HRFOR and independent human rights groups to study the most efficient, fair and effective manner to promote the administration of justice and advance the cause of justice in Rwanda.

## Partiality: The Focus on "Nailing the RPA"

*We are expected to devote our energies to one thing. And that one thing is nailing the RPA.*

A monitor interviewed in Kigali, 19 March 1995.

As of early March, HRFOR has concentrated almost all its efforts on monitoring the current situation. In the words of a former monitor "everything else has been sidelined." In a letter issued on 31 December 1994, Dr Chris Scherrer and Patricia van Nispen, two monitors who were then serving with the mission wrote;

We were hired on the basis of a mandate that includes the aspects of genocide investigation, confidence building, technical assistance and monitoring of the current. The first few months of the mission, the human rights officers were hindered in the implementation of this mandate by a lack of vision, funds and logistical problems. Presently, before the mission has properly started, we observe a shift of policy.

The HRFOR seems to concentrate on only one aspect of the mandate. The human rights officers are encouraged to focus on current human rights violations. The shift of policy will not only have a destructive effect on the field operation, but also on the reconciliation and reconstruction in Rwanda. There are signs that the narrow approach of the mission is designed to make HRFOR a failure. Certain governments might try to prevent that HRFOR becomes a model operation, which could develop into a full-fledged human rights mechanism. The new focus is divorced from the realities and the needs in this country.

Another monitor remarked upon the pressure he and his colleagues were under, with the clear indication that the prime target of their work was the RPA.

The obsession with 'monitoring', a euphemism for going after the RPA, is becoming an outright embarrassment. I am expected to stand around in banana-beer huts in the countryside collecting dirt on the RPA. This is the most ridiculous thing I have ever heard, the most ridiculous thing I have ever been asked to do. How can we be expected to behave in such an unprofessional, undignified manner? There is nothing wrong with our being concerned about current human rights problems. After all, it is part of our mandate. But firstly, it is only a part of our mandate. We were not sent here exclusively for that. I would have thought that the genocide would also be a key focus. But it is not. Unfortunately you cannot divorce the two. Without an understanding of what happened in the past, how can we even judge to what extent the current arrests are arbitrary?

If we are going to accuse the RPA of violations, it would be sensible to talk to the RPA themselves about the allegations. But no. To talk to the RPA is taboo. It is as if to talk to them would be to 'legitimise' them. We are ourselves discouraged from dealing directly with the RPA. And most of the time the NGOs who bring many of the complaints forward will not talk to the RPA either. When you ask them if they have brought the substance of the complaint to the attention of the RPA, usually they look surprised and say 'No, but I talked to the préfet.' We should collect information in a sober, dignified manner and in the widest possible context. Which is precisely what we

are not asked to do. Instead, we are encouraged to hang around beer halls to gather negative information about the RPA.

In the words of one monitor, "The point of departure for this mission is that human rights monitors are neutral. Hence they cannot assist a government. Their task is limited to reporting violations." The reality is that most monitors are anything but neutral in their attitude to the RPA. Certainly there are monitors who are open-minded and fair in their attitudes to the RPA and who have tried to work with them so as to improve human rights in Rwanda. But a substantial number of monitors have been influenced by the overtly hostile attitude taken by the leadership of HRFOR. The Kibungo team is widely regarded as particularly paranoid. A monitor working in Kigali described the reaction of a colleague stationed in Kibungo who was visiting Kigali.

He received a radio message from an NGO saying that one of the mission's local staff had been delayed at a roadblock in Kibungo. He went berserk, insisting that we immediately notify UNAMIR. Some of us suggested that we wait for a while. He kept saying 'You guys do not know what the RPA can do. They'll kill him. He's as good as dead if they've got him at one of their roadblocks.' Half an hour later this man himself came through on the radio saying he was fine.

The préfet of Kibungo, Protais Musoni, spoke of an operation that had abandoned the principle of impartiality.

They have done nothing about the genocide which was terrible in Kibungo. Nothing at all. They only seem to be interested in protecting people they see as anti-government. They are concentrating only on current violations. And even then, they are not interested in actually doing investigations. They have come with their minds already made up about the terrible things the government is doing. They are convinced the evidence is there; so they do nothing to investigate what are serious charges. They go around to 'collect' the evidence. They are not interested in helping us look for solutions. The sole positive thing I can point to is that they have helped the prosecutor with transport. That is all.<sup>14</sup>

Aware of his colleagues prejudices, one monitor joked:

Some monitors are so politically clueless and yet so determined to get the goods on the RPA that they would probably go up to the 1959/1960 refugees and ask them 'Hey, do you have any problems with the RPA?' That is if they even know who the 59/60 refugees are.

A different and more subtle strategy of political warfare against the RPA consists of arrogance and ill-manners. Older monitors described their shame at the disrespectful attitudes adopted by many young and inexperienced monitors towards even RPA officers, not to mention young soldiers. A monitor who had in fact worked hard to establish good working relations with the RPA in her area recorded her embarrassment:

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<sup>14</sup> Interviewed in Kibungo, 22 March 1995.

The things we are expected to ask them, the attitudes that we are encouraged to take would never be tolerated from someone of my age, or from anyone, in my own country in Europe.

In a moment of exasperation, an RPA officer lost his temper and asked her if she would have put the same questions to security officers in her country.

The question took me back. And it made me think. I had to admit that in my country I would never have dared to put general questions to an officer of his rank, leave alone specific questions. And of course I would never have been put in a position to demand that he account himself to someone of my age.

Several monitors also pointed out that the effect of the new militaristic approach of 'patrolling' was unlikely to help relations with the RPA. Even where there are joint missions to investigate infiltrations from neighbouring countries, the effect, if not the intention, is less than helpful.

Of course we have resources they do not have--in the form of maps, cameras etc... The fact that we have these things and they don't comes out all wrong. And it does so because there is so much else wrong with the way this mission approaches its presence in this country and its relations with the RPA. It should be an opportunity to share these advantages to build up mechanisms and strengths within Rwanda. But it is used to undermine them, as a form of competition. It's childish and it is wrong. It is also counter-productive.

All the monitors who spoke with African Rights questioned the political and practical wisdom of the mission's mindset towards the RPA. One of them asked:

Who gains from this attitude? How does this approach help the people of Rwanda? If we want to protect the victims of injustice, how do we make a constructive contribution by alienating the very people who we should be trying to influence? Why are we so determined to aim for the wrong targets? Instead of working with the RPA to improve human rights, we are working against them. When the RPA arrests people accused of the genocide, we should help them to ensure that justice is done. We should assist them in establishing the truth behind the accusations that led to the arrests. Instead we adopt an attitude that is not only unhelpful but in the end encourages retaliation.

The hostility towards the military is sometimes farcical. A monitor who became friendly with an RPA officer related to someone she had known for years recounted her experiences. She was always warned when she went to meet him that she might be 'kidnapped.' For this reason she was advised to always find out where he planned to take her and to report the rendezvous and their plans.

This is how they think at the personal level. Imagine how they approach their work. Their paranoia is such that they are always talking about being followed by the RPA. They live in a James Bond world. Only the cast of characters are amateurs.

And the hypocrisy of it all is that the same people go and tell the RPA that they want to co-operate with them. At least if they had the courage of their prejudices. But

in front of the RPA, it is all laughter and smooth. But they distrust them as if they were lepers. They use the officers that deal with them as little as possible except to get appointments with officials. It is not a question of liking or not liking the RPA. We should work with them so as to do some good for Rwanda. That requires goodwill on both sides. But there is no goodwill from the senior people at the mission. Their whole attitude is that to give information, any information, to the RPA will put people into danger.

Many monitors who spoke with African Rights attributed the virulent anti-RPA bias to the presence of a substantial number of monitors who previously served with the UN human rights mission in Haiti. One monitor described the mindset that she believes has coloured their judgement.

They come from Haiti to Rwanda with an attitude that sees the political situation here in terms of the bad guys, the Tonton Macoutes, and the good guys, the government. They do not use their judgement about the situation in Rwanda. Here the bad guys are the RPA and the good guys are the poor Hutus who are being arrested and bashed by the RPA.

In recent weeks, different forms have been invented for recording current abuses. As the objective is to accumulate 'evidence' against the military, none of the forms provide space to record corrective action taken by the military authorities.

In all the forms that we are expected to fill out about the current situation, there is no space to record corrective action by the RPA. No one wants to hear that they defused a crisis or changed a certain policy or practice. There is no opportunity to record improvements. The point is to nail them, not to give them credit for anything they have done.

The European Union (EU) has agreed to fund a substantial number of the new European monitors who have just arrived in Rwanda. This has worried the monitors from the EU who have worked in Rwanda for sometime. According to a number of them, EU representatives who have visited the country appear very focused on current violations.

#### *Gearing Up for the "Second Gersony" Report*

According to a number of monitors, HRFOR is planning to issue what Mr. Clarence has openly told colleagues will be the "second Gersony report." This is a reference to a report written for the United Nations High Commission for Refugees by a consultant, Robert Gersony, which accused the RPA of committing widespread and systematic violations against returning refugees. Its veracity and credibility challenged by other organs of the UN in Rwanda, the Secretary-General forbade discussion or publication of the report pending further investigations. A copy has never been given to the Government of Rwanda or to the RPA, denying them the opportunity to defend themselves or take the necessary corrective action. But the damage was done and has poisoned relations between the RPA and UNHCR.

Whether it is part of the preparations for the "second Gersony" report or not, the new emphasis on collecting daily numbers of violations by the RPA is indicative of the current trends. Each team has been asked to fill out one of the forms reproduced below.

Registry of Cases of Human Rights Violations \_\_\_\_\_ Sector

No. File. Name of Victim. Violation. Place of Violation.

Date of Violation. Sex. Human Rights Officer.

Perhaps HRFOR will show enough political sense not to issue such a report. But if it does, it is difficult to see how the Government of Rwanda, other agencies of the UN, donor countries, international and local human rights organizations, journalists, as well as the Rwandese public, can take seriously a report written under the circumstances described above.



## Lack of Leadership and Political Direction

*When it comes to human rights, the UN in Rwanda is an unmitigated disaster. It is incompetent beyond belief. And the principle reason is that there is absolutely no direction, no management. The entire operation has no basis in human rights work.*

Adam Stapleton, a former monitor in Gikongoro, interviewed in London, 19 December 1994.

The mandate of HRFOR is clear; the problem has been the implementation. It is the responsibility of the chief of the mission, Mr. William Clarence, to formulate intelligent policies and strategies to translate HRFOR's goals into feasible projects and to guide the monitors in the implementation of the stated objectives. He has failed to do so. Worse still, he has never tried.

Current and previous monitors are unanimous in their scathing remarks about the leadership of the mission -- or the lack of it. "Indecisive" is the word used most frequently to describe Mr. Clarence. African Rights did not interview a single person who had anything positive to say about Mr. Clarence. A retired official of the United Nations High Commission for Refugees (UNHCR), he has no direct experience in human rights monitoring. His current deputy, Mr. Abdirizak Essaied, also a former official of UNHCR, has no background in human rights either.

No one can understand what qualified Mr. Clarence to head a pioneering human rights mission in a difficult and delicate political atmosphere. His lack of human rights experience is painfully apparent in his day to day work. Between laughs, monitors narrate stories about Mr. Clarence that reflect poorly on the entire mission, on the High Commission for Human Rights, on the UN Centre for Human Rights and on the UN in general and which are a disservice to the cause of human rights.

One monitor described an incident in which a man complained that his passport had been confiscated by the government. The monitor in charge of the case prepared a memo for Mr. Clarence. His response was to dismiss the case, arguing that the confiscation of passports had nothing to do with human rights. It would appear that Mr. Clarence is unaware of the contents of the Universal Declaration of Human Rights, the United Nation's own Covenant on Civil and Political Rights, or the Rwandese Constitution, all of which protect freedom of movement.

Geneva and New York must answer for the choice of Mr. Clarence. They have done nothing to control the sense of drift and confusion, the lack of diplomatic and political initiatives, the waste of resources, lack of managerial skills and the refusal to work in a constructive manner with the government and military authorities that have become the hallmark of this mission. The frustrations of one monitor were echoed in numerous conversations.

Why did Geneva make him the head of this mission? He never makes a decision. For the slightest thing, he must call Geneva. Whenever I submit something to him that I think is important, he finds a way of wriggling out of any commitment. This is a strategic mission. It could have set a good example. But everything about the mission



has been designed to set a bad example. This mission is not only rubbish. It has been designed to fail. It is an insult to Africans.

The inability to take initiatives was illustrated by his failure to make any preparations for Human Rights Day on 10 December. Despite pressure from several monitors to use it as an opportunity to highlight human rights issues, and to bring HRFOR close to the Rwandese public, Mr. Clarence refused to budge until a directive came from Geneva close to the deadline. Because of the failure to prepare the ground, the event in Kigali was, predictably, poorly attended.

Even the Special Rapporteur of the United Nation's Commission for Human Rights, Mr. René Degni-Ségui, has criticised the leadership for being 'vague.' Referring to complaints about the lack of material resources and logistical support, he wrote:

But to these reasons must be added others relating to personality conflicts and to the vagueness in the instructions which are given.<sup>15</sup>

He pointed out that the mission's failures had already led to the resignation of two monitors and had contributed to the decision of two others not to seek a renewal of their contract. He added that he had to dissuade others from resigning during his visit of 14-25 October 1994.

The Special Rapporteur noted his observations in November. The situation has not improved. According to a number of European monitors, European ambassadors and government representatives in Kigali believe that Mr. Clarence has 'grown into his job.' His staff disagree. Speaking to African Rights as recently as late March, many monitors highlighted the continuing shortcomings of HRFOR which include the lack of a sense of purpose, direction, the failure to analyse its achievements and difficulties. There is no oversight, no continuity of work and no attempt to build up a sense of institutional responsibility and memory.

Many local government officials complain that HRFOR has made things worse in their regions. The préfet of Kibungo, Protais Musoni, questioned whether the mission had achieved its stated goals.

The impact of this mission in Kibungo has been totally negative. Frankly, I think the monitors here are mad.

When they first came, they told me that their objectives included investigating the genocide, current violations, the administration of justice, confidence-building and human rights education. I gave them permission to go anywhere they wanted in Kibungo. All communes welcomed them.

Initially I had expected something positive to come from their presence. Far from that. Now I see them as a source of political unrest. They go around the préfecture asking the population 'Are you a Hutu? What are the Tutsis doing to you?' 'What is the RPA doing to you?' They are causing security problems for us and even to themselves. They go around looking for anti-government people to give undue

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<sup>15</sup> Quoted in the report Mr. Degni-Ségui submitted to the UN Commission for Human Rights on 11 November 1994.

protection to. They have gone out of their way to protect people who are accused of complicity in the genocide. And they do so to slight the authorities, to slight the RPA. It is possible that they have even assisted people wanted in connection with crimes to escape Rwanda. I cannot allow such people to compromise our security and sovereignty. I have asked one of them to leave this préfecture and another monitor is currently persona non-grata in one of the communes. (See above for details).

The préfet explained why he has been unimpressed with the calibre of monitors in Kibungo.

They have no background knowledge of Rwanda. They don't know how to work. They are young and immature. They are even a danger to themselves because they think they can force issues on us. When the other préfets and I met recently with their head, Mr. Clarence, he admitted to us that most of the monitors are young and immature in their outlook. So we asked him: 'If you know that, why then do you bring such people to our country, people who do not have experience, who can contribute nothing?' His response was to say that they needed to have seminars organised for them. We don't know what kind of seminars they need. But what we know is that we don't need them.<sup>16</sup>

A foreign employee of an NGO said he has ceased passing on information about human rights abuses to the monitors because he regarded them as "unreliable."

It is not clear to us what the UN human rights monitors do with the information they are given. There seems to be no sense of purpose to the whole thing. So if you give them information, you don't have any confidence about what they will do with the information. When you see them on the ground, it is apparent that each one is doing his own thing. They get very little guidance from their team leaders in the field, from their office in Kigali or from Geneva.

Another time when we went to report an incident to a group of monitors, one of them came to see us afterwards and advised us not to waste our time giving reports to their team because nothing is done with the information.

The problem is that the local population knows these facts about the monitors as well as we do. How can they have any confidence in them?

It is difficult to find anyone in Rwanda with a good word for the mission. The kindest view is that most of the monitors come with a desire to make a positive contribution. But given the overall lack of experience, guidance and supervision, this does nothing to mitigate the damning conclusions drawn across the board. A frustrated aid worker commented:

They have no idea where to go to get information or how to collect information. They have no idea what to do with the information you give them. For example, they have asked us for lists of people who are said to have disappeared. We gave them the lists. Then they turned around and asked us what they should do with the lists.<sup>17</sup>

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<sup>16</sup> Interviewed in Kibungo, 22 March 1995.

<sup>17</sup> Interviewed in Kigali, 2 March 1995.

HRFOR has hired some experienced professionals, such as Adam Stapleton, a British lawyer who served three months in Gikongoro, until mid-December 1994. In common with a number of other qualified and dedicated staff, he did not seek a renewal of his contract. He spoke on the record.

When it comes to human rights, the UN in Rwanda is an unmitigated disaster. It is incompetent beyond belief. And the principle reason is that there is absolutely no direction, no management. The entire operation has no basis in human rights work. The people who have been sent out to do the work have not even read the publications concerning previous [UN] human rights operations. We simply reacted to events. We made no contributions when the situation called for constructive statements which would have done much to defuse tension or shore up the efforts that others were making. The three months I was there the UN Centre for Human Rights never issued any public statements. No wonder that the international agencies working in Rwanda feel contempt for the mission and the Centre.

We never sat down to set out priorities, to get direction for our work or to review our activities. The only exception was a review session at the end of the three months. Clarence, the head of the mission, had no human right experience and was completely out of his depth.

There is no structure in place to pass on information. We are suppose to be on the ground in order to give confidence to the local population. But how can we do that when a system for passing on information has not been set up? At times it was important for Clarence to take diplomatic initiatives with the government in order to help the situation. Nothing happened. Nor were any emergency procedures put into place. It would have helped to defuse the situation on the ground if we used the radio to calm, inform and assure people. But we never did. No information was ever given on the numbers of people in detention, deaths in custody, deaths in suspicious circumstances or any other aspect of the human rights situation. None of the appropriate stepping stones have been set up.

Mr Stapleton added:

I would say that about 85% of the monitors come motivated. But their motivation is killed through lack of direction. This makes the whole operation even more obscene.<sup>18</sup>

Monitors who spoke with African Rights were not surprised that little support has come from the rest of the United Nations. They put the blame squarely on the mission itself, arguing that it has failed to present convincing evidence of its contribution to justice, confidence-building or reconstruction of the legal system in Rwanda. In a frank statement, one monitor commented:

This is a new operation. It has to earn the respect of other UN bodies and agencies both in Rwanda as well as Geneva and New York. It is the responsibility of the mission to create confidence in its work from the Security Council, the General Assembly etc...But it has not. On the contrary, a number of the staff of UN agencies in Rwanda have submitted complaints against the mission after nothing is done about their repeated requests for investigation of incidents. I met with the head of one UN agency

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<sup>18</sup> Interviewed in London, 19 December 1994.

in Kigali who has been anxious to contribute money to the mission. To be honest, I discouraged him because I see it as a waste of money to support this mission.

### *Confusion and Changes in the Mandate*

Despite the clarity of purpose on paper, government officials, military officers, aid workers and even representatives from other UN agencies expressed disbelief in the inability of monitors to state the purpose of their work in a coherent manner. A foreign aid worker described an embarrassing meeting in the office of the préfet of Ruhengeri when the monitors came to "explain" their mission.

The préfet asked them to describe their terms of reference. They clearly had no idea. Then he asked them to say exactly what they had come to investigate. They kept changing their mind. One minute they said current abuses. The next minute they said the genocide. By the end we were all thoroughly confused. So the préfet asked them to come back when they had a clearer notion of what they had come to do in Rwanda. Monitoring human rights should not be something you do with amateurs. The fact that they don't have a clear idea of their mandate makes it difficult to know what information to give them.<sup>19</sup>

Monitors themselves are disoriented by the mission's tendency to switch from one focus to another, without explanation and without preparations. Sara has been with the mission for four months.

Ever since I have been here everything has been slapdash. Nothing has ever been worked out, nothing is thought through. We have no plans, no strategy for anything and we are totally disorganised. We jump from one thing to another. One moment the rage is the administration of justice, another time it is doing something on the genocide. Then it changes to the displaced, after which it is listing current violations. And each time the administration gears itself up to absorb the new focus and loses sight of everything else. It is very sad because it reflects so badly on the UN's human rights work. And it is sad for Rwanda.

In an interview with African Rights in Kibuye on 12 March, the préfet of Kibuye, Asiel Kabera, was less than impressed with the achievements of the mission.

I don't know what the UN human rights monitors are doing here in Kibuye. I see them eating good meals here at the guest house, driving around in their cars, sitting by the lakeside and sunbathing. The only thing they come to ask me is about some interahamwe who has been arrested. They get very excited when an interahamwe has been arrested. They visit my office and read lists out to me about people who have been arrested. That is the extent of their interest in human rights in Kibuye. They don't know anything about this detainee, where he comes from, they don't come with any statement related to this person. You would think they came to protect the interahamwe. The only thing they seem interested in is getting 'proof' that the administration is not

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<sup>19</sup> Interviewed in Kigali, 2 March 1995.

working. They are beating around the bush instead of dealing with real problems in this country.

Their mandate is not clear to me. I don't know what they came to do. They say they came to alleviate the trauma of the population, to ease their recovery. But since their arrival, they have in fact increased the tension in Kibuye. They go into the communes and sectors and ask the people pointed questions: 'Is the government committing injustices against you?' From my travels around the préfecture and my meetings with the population, I have learned about the statements they make. For example, the population tell me that some of these monitors go around the region saying that the government is seven months old, that everyone implicated in the genocide should have been arrested by now, and that if people are still being arrested, then something is wrong. This is what I hear from the local population all over Kibuye and it makes me feel embarrassed and angry.

The monitors here are obsessed with the RPA, always saying that RPA soldiers must be looking for revenge since their people were wiped out. Because it is understandable that they would, then to them it follows that they must be. No region has been so affected by the genocide as Kibuye. But the monitors have done nothing concrete about it, nothing useful that I can point to. Their reluctance to do anything meaningful about the genocide raises questions about what they came to do in Rwanda.

The only time they asked me anything not related to arrests was in November. They came to assess the damage to the [office of the] préfecture, to see what we needed in the way of computers, fax machine and general office equipment/material. They have never come back. When I ask about it, they always tell me the same thing: 'We have sent the report to Geneva but there has been no reaction.'

There is not a single area of our needs where I can say that this human rights mission has made a contribution. When I look at their mandate, at what they say they are going to do, there is nothing I can tell you they have done for us. Nothing. They have never come to discuss how they can contribute to the reconstruction of Kibuye. They have not conducted serious investigations into the genocide, they have done nothing about re-establishing the judiciary, they have done nothing about confidence-building. On the contrary, they are only causing us problems. In my view this mission is contributing to insecurity in Kibuye, to the raising of political tensions.<sup>20</sup>

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<sup>20</sup> Interviewed in Kibuye, 12 March 1995.

## A Haphazard Operation

### *Recruitment of Staff: Grateful to Get Anyone*

On 17 August 1994, José Ayala Lasso wrote in the *International Herald Tribune* that "a total of 26 human rights specialists will be fully deployed soon in Rwanda...In order to enhance the work of the Commission of Experts, which convened in Geneva on Monday for the first time, teams of two human rights monitors will be placed in each of the 10 districts of Rwanda, supported by local staff." <sup>21</sup>

A plan represented by William Clarence in September called for 147 'human rights specialists', one per commune. Up to mid-March only about sixty monitors had been deployed in Rwanda. About another forty arrived in mid-March. No monitors have yet been appointed to the préfecture of Byumba. Greater Kigali, the scene of some of the worst human rights abuses in the early nineties and a region ravaged by the genocide, was assigned two monitors in February. It still has no office. Except for a few experienced lawyers, none of the monitors are 'human rights specialists.' or have ever done any work in the field of human rights. Some are in their twenties; it is the first job they have ever held. Their gullibility and inability to make informed judgements is all too apparent, with embarrassing consequences for HRFOR and the UN in general.

The monitors are divided into two categories, professionals and UN volunteers. The main difference is the salary scale. Ironically many volunteers have better professional qualifications and more extensive field experience than a number of the professionals. Many of the professionals only graduated from university in July or October 1994.

### *Recruitment Procedures*

The staff are recruited by the UN Centre for Human Rights in Geneva. The monitors were more surprised than anyone else that they were hired. The descriptions they give of the process that led to their recruitment is scarcely believable comedy or farce. The tragedy is that the story is not only real life, but theoretically a pioneering effort of the world's summit institution to come to terms with the worst episode of human rights abuses for many decades.

Every single monitor who spoke with African Rights was hired at the end of a telephone or fax. No one was interviewed and no one had their references checked. Many monitors never spoke to anyone at the Centre even on the telephone before they were hired, except to check that their CV had been received. A lawyer who received a contract offer within forty-eight hours of faxing his CV and told to leave for Rwanda immediately was astonished.

How could they have hired me just like that? They knew absolutely nothing about me except what was on my CV. They did nothing to find out who I was. I might have been plain cuckoo for all they know.

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<sup>21</sup> José Ayala Lasso "Human Rights Monitors Can Help Bring Peace to Rwanda", *International Herald Tribune*, 17 August 1994.

Most people were asked to leave for Rwanda within a few days of receiving an offer of a contract. A few candidates were given two or three weeks to wind up existing work commitments. Many monitors had never applied for the job or had ever applied to the UN Centre for Human Rights. They had earlier sent their CVs to other UN agencies including the High Commission for Refugees (HCR). A monitor who had sent his CV to HCR received a phone call from Geneva.

I got a phone call from Geneva offering me a job to go to Rwanda. Since HCR was the only organization I had applied to, I assumed I was talking to their representative. Then the person used the word 'he' when referring to the High Commissioner. I was momentarily confused as I knew the High Commissioner for Refugees was a woman. It finally transpired that the person offering me the job was from the Centre for Human Rights where the High Commissioner is indeed a man.

Paul did not apply for the job but had left his CV with the UN sometime back. He is the first to admit that he had no background in human rights work. Surprised to have been selected, he was even more startled by the haste with which he was hired, followed by extreme reluctance to give him a job to do.

I first got a phone call from Geneva asking me if I wanted the job. This was followed by a fax from Kigali offering me the post and asking me to get to Kigali as fast as possible. I remember thinking 'This is even more of an emergency than I thought.' Then nothing happened for two weeks. The only thing that I did for those two weeks, during which I was supposedly on the payroll, was to take a two-hour medical examination.

I waited to be flown to Rwanda. I finally had to take the initiative to get myself to Rwanda. When I got to Kigali, no one knew anything about me. No one was expecting me. There were no papers about me. After three days of waiting, I asked for some briefing papers. I was told that there was nothing in writing. I was told that a verbal briefing would be given by each department head. Imagine, this was my first experience in the field of human rights.

He left in despair, only to be besieged by requests to return to Kigali. Geneva was "unable" to understand the problem, his papers apparently having been sent to Rwanda three weeks earlier.

I returned to Kigali. But there were no papers. I began to think the whole thing was a joke. Except it was not funny. I was beginning to get angry. In the meantime, the [current] deputy head of the mission kept telling us 'To be patient.' He advised to read us as much as possible about Rwanda. But what could we read? We were given no briefing papers and the mission does not have a library. In addition to the two weeks I spent waiting to be brought to Rwanda, I spent another three weeks kicking my heels in Kigali. Some other monitors have spent even longer periods doing nothing but waiting, waiting. And remember all this time we are accumulating big salaries.

Francis had a similar experience.

I heard about the mission for Rwanda and faxed my CV to the Centre for Human Rights in Geneva. A week later I was offered the job. Saying that it was urgent, they asked me to fax back my agreement within three days which I did. I was sent a business



class ticket to Geneva and arrived there on a Wednesday night. On Thursday morning, I was given a medical check and attended to some administrative matters. On Friday morning, I had my only briefing session with one official of the Centre who had just returned from Rwanda. The session consisted with him complaining about having to fly economy-class. That was it. He did not tell me anything about Rwanda. The same afternoon, I left for Rwanda with some other recruits. None of us knew anything about Rwanda.

African Rights did not meet a single monitor who was interviewed before he or she was hired. Diane who had never applied to the mission but had sent her CV to the UN in Geneva commented:

To be able to give something in a situation like Rwanda, you need to have experience of life. But from what the others say, they just grab people in the corridors of the Palais des Nations in Geneva and say 'would you like to go to Rwanda?'

One of the political biases in the recruitment process is the domination of French-speaking West Africans from the countries which supported French policy in Rwanda and the near total exclusion of English-speaking Africans. Until recently, there were twenty-one African monitors in the mission. Only two came from English speaking countries, one in the professional category and the other working in administration. Sixteen came from countries whose governments have been supportive of French policy towards Rwanda, namely Senegal, Togo, Mali, Chad, Mauritania, Cameroon, Côte d'Ivoire, Central African Republic and Benin. Two came from Algeria and one from Morocco. Two English-speaking monitors have joined the latest batch of recruits, as reflected in the new list of monitors dated 10 March.

The rationale is that French is a necessary tool for this mission. The ability to speak French is certainly important for working in Rwanda, but this needs to be balanced by a recognition of two facts: (1) many RPA soldiers and commanders speak English rather than French and (2) the sensitivity of employing nationals of countries that strongly supported the former government. Also, if the requirement for fluency in French had been required across the board, the many non-African monitors who do not speak French would not have been hired. African Rights met a number of monitors in the field whose level of French was clearly not adequate for the task at hand. Again, HRFOR appears to have made no attempt to meet the twin needs for practical competence and political impartiality, and succeeded in neither.

The issue of language has also been used to drive a political wedge between different arms of the government. It is perhaps unfortunate, but understandable, if the issue of language divided the monitors themselves. But it has political consequences. A monitor who noted the inability or reluctance of some French-speaking monitors to make the effort to reach out to English-speaking military officers commented:

Many monitors have created an issue out of this within the government. Most of the civilian administrators the bourgmestres, the councillors etc...are French-speaking. Many of the military officers are English-speaking. To refuse to take a step towards them is rude. The important point is to get through to each other, at least to show goodwill. It does not matter how many mistakes we make. People appreciate the fact that we are trying. Not to try to get through to the people we should be working with marginalises us. It reflects an attitude that reinforces existing divisions and feeds into



the anti-RPA feelings. But it is divisive. And for human rights monitors to feed into it is a travesty. It is a gratuitous disaster.

When Mr. Todd Howland, the head of the Technical Cooperation Programme requested a translator to assist a series of intra-ministerial meetings he had organized to advance discussions about rehabilitation of the justice system, Geneva turned him down, saying that 'French was the official language of Rwanda.' The active participation of senior staff from the Ministry of Defence and the gendarmerie is critical to the success of efforts to rebuild the machinery of justice. Many of their senior officers speak English and do not speak French. HRFOR is aware of this fact.

### *Lack of Preparations*

Nothing illustrates the slapdash nature of HRFOR more than the total lack of preparations. The first monitors arrived in September; the third batch arrived on 18 November. The first two-day briefing sessions began on 22 November. No books or background documents were provided. The sessions consisted of about twelve fifteen-minute lectures on the following topics:

- \* The justice system;
- \* The history of Rwanda, but only since 1959;
- \* Relations between different social groups and the administrative structure;

While acknowledging that these talks represented an improvement, monitors unanimously described the sessions as superficial and inadequate. One of them commented:

They are aware that hardly any of us know a thing about Rwanda. How could we understand the situation from fifteen minute immersions, with no additional material to read. What was said was not enough. And of course what was left out is also significant. I did not know anything about Rwanda. But I knew that its history did not begin in 1959. Mind you, even that is an improvement because usually for this mission everything in Rwanda starts with 6 April 1994. Nothing was said at all about the economic context. Whatever we have learned about Rwanda, we have learned on the ground.

The humour with which monitors related their initial experiences in Rwanda belies their anger about HRFOR's lack of seriousness, reflected in the failure to prepare monitors for their responsibilities.

Thomas, a monitor who had no background in Rwanda arrived in Kigali without having received any background material. For the first week no one told him anything. He did not see the head of the mission. No one told him where he was to be posted or what he would be expected to do. Then suddenly one morning he was woken up and told to pack his bags.

After one week, someone knocked on my door at 7:00 a.m. where I was staying. I was in my pyjamas when I opened the door. I found someone telling me they were my team leader and I should pack up because we were leaving for one of the préfectures. I just closed the door. They insisted that it was true and that they were merely implementing the instructions they had been given. I was furious. I had to ask myself what on earth I

had let myself in for. I began to wonder if this was a human rights mission or a military operation. How can I be expected to leave Kigali on the words of someone turning up when I am still in pyjamas? I demanded an explanation and all I got was 'Sorry.'

By all accounts he was lucky; a week of waiting in Kigali is modest by the standards of HRFOR. A monitor who was rushed from her home in Europe to Geneva, business class, and was then asked to leave for Rwanda on the first plane out of Geneva, spent the next three weeks sitting in a hotel room in Kigali.

Another monitor described his two days of briefing in December.

We were given two days of briefing in Kigali. We were told nothing about the history of Rwanda, or the current political and military situation. They just kept saying 'These people are traumatised.'

Others had similar experiences and disappointments. According to Joanna:

We arrived in Kigali and were taken to the Mille Collines Hotel. The only thing we did in Kigali was to attend daily briefings which concerned the general current situation, military sector by military sector. No one ever sat down with us to explain the mission, to give us reading material about Rwanda or about other UN human rights missions. I was bored as I was given nothing to do. So I sometimes went up in a helicopter with the Special Investigations Unit [SIU] and the three members of the UN Committee of Experts. This Committee was also a disaster. [Opinion about the Committee of Experts is universally poor in Rwanda]. We would go to one or two mass graves, stopping for five minutes while the population gathered around us and everyone said 'Oh how terrible', 'Here is a skull.' SIU would sometimes take the skulls back to Kigali.

It was only on 2-3 February that the first training sessions started, four months after the first monitors arrived. The first training session lasted one week.

#### *The Effect of Mismanagement: Infighting and Poor Morale*

The managerial shortcomings described contribute to low morale and job satisfaction among the staff on the HRFOR mission. While part of the initial problem was poor recruitment procedures, once the teams arrived in Rwanda the issue became inadequate personnel management and limited ability to put teams together, how to balance experiences, skills, strengths, and languages, how to work with what there is and draw the best out of the staff.

The seeming inability of the top management to take decisions allows small problems to fester and makes timely solutions impossible. Internal memos are replete with serious counter-accusations as well as personal recriminations that reflect an extraordinary level of tension and frustration. It is difficult to exaggerate the disappointment and bitterness felt by staff members. "The overall structure of the mission, including careless recruitment and the lack of people to take decisions, gives too much space for the worst to come out in everyone" is how one monitor described the pattern of mutual recriminations that are apparent to the most casual observer.

Monitors complain of lack of hospitality and a generally unpleasant ethos. One monitor spoke of the corrosive effects of living under these conditions.

The environment of the mission saps you and contributes to the monitors' inability to understand the gravity of the situation in Rwanda. The atmosphere in the mission does not help people comprehend or cope with the context in which they are working. So they get mired in petty squabbles instead. This only makes it even harder to cope.

Initially crippled by an inadequate number of cars, the arrival of new cars quickly degenerated into petty power struggles.

The security of certain monitors is even at risk from their colleagues. The words of one monitor, calling it "a mission of madness" may not be an exaggeration. Shocked by the violent and unreasonable behaviour of the former team leader of Gitarama, several monitors registered complaints against him. At least one of his colleagues has formally reported him to the UNAMIR police force. According to monitors' accounts, he has tried to run a colleague over, smashed the door and changed the lock of another colleague with whom he shared a house in Kigali and threatened to attack a third colleague. The latter took to sleeping with a knife under his pillow and finally moved out of the house, saying he feared for his life. However, the leadership of HRFOR refused to take any action until he was transferred in March after a complaint by the RPA on an unrelated matter. Instead of being removed from the mission, he was re-assigned as head of the Kibungu team, an already troubled team whose previous leader was thrown out of the préfecture by the préfet.

Female staff members also complain of rampant sexism in HRFOR. There is currently only one female team leader. At least one woman asked to be relieved of her responsibilities as team leader.

#### *Waste of Financial Resources*

At every level HRFOR is characterised by extravagance and waste. One of the most wasteful expenditures is the excessive use of helicopters. No one argues that helicopters should never be used. However, it is difficult to justify the routine use of helicopters in a tiny country of 26,000 square kilometres with a good network of roads. In early December, the Cyangugu team organised a three-day conference to mark Human Rights Day, 10 December. Mr Clarence had been invited to address the conference on the final day. He arrived by helicopter at 1:00 p.m., saying he could only stay for fifteen minutes. The Cyangugu team asked him to extend his stay but to no avail. He then proceeded to deliver his written speech in English, oblivious to the fact that at least 95% of the audience spoke French and no English. At the request of members of the Cyangugu team, the assistant who had accompanied him agreed to give a summary in French. The summary consisted of a French translation of Mr Clarence's speech which had already been prepared. There was no time to talk to the audience or to answer questions. Then they left on their helicopter. The routine affluence of the mission is illustrated by the fact that every monitor has been flown business-class, both to Geneva and to Kigali.

The Special Investigations Unit (SIU) set up to investigate and co-ordinate the research on genocide, has relied almost exclusively on helicopters. They have used them even to go to

préfectures as near to Kigali as Kibungo and Butare, accessible on tarmac road within one and a half to two hours.

In early March African Rights learnt of plans to set up a new database at a budget of US\$500,000. A baffled monitor commented 'Perhaps a new database is required, but surely not at such cost. Why don't we use the money to help the government cope with the problem of overcrowded prisons?

*Too Close for Comfort: Relations with the UN Military Observers*

Monitors, numerous Rwandese as well as foreigners working in Rwanda criticised the cosy relations and dependence of HRFOR on the Military Observers (MILOBS) of UNAMIR II, unarmed military observers whose task is to monitor all aspects of the current situation in Rwanda. There is in fact no formalised working relationship, though such an arrangement is said to have been discussed at a recent sector commanders' meeting. The agreement between the Government of Rwanda and the High Commission calls for the mission to 'work closely with UNAMIR and other UN agencies.' They are also dependent on them for security reasons.

The dependence on the MILOBS for security, especially in the field, is entirely understandable. They are also reliant on them for vehicles, helicopters and contacts in Kigali. The problem lies in the confusion of roles with regard to investigations of current incidents. It is clear from observing their co-operation on the ground, and from some of the papers obtained by African Rights, that monitors rely to a great extent on assessment documents established by MILOBS. They share the same radio frequency with the result that the monitors' information is accessible to the MILOBS and vice versa. The fact that so much of their information about the current situation comes from the MILOBS inevitably shapes their judgement about political and military issues.

Even more problematic is the fact that so much of the monitors' investigative work is carried out in conjunction with the MILOBS. Monitors usually turn up to investigate incidents in the company of the MILOBS who are of course wearing their military uniforms. An aid worker described the effect on people's willingness to talk openly.

Recently some people were taken from a dispensary in Ruhengeri. Our local staff told us what happened. Human rights monitors arrived together with uniformed soldiers from UNAMIR. The same staff who told us what happened told them that nothing had taken place. When we questioned them afterwards, they said they will not talk in front of soldiers in uniform.<sup>22</sup>

Another aid worker echoed the same view:

There is a confusion of roles with the military observers who are suppose to do intelligence-gathering for UNAMIR. The division of responsibilities between the two groups is unclear.

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<sup>22</sup> Interviewed in Kigali, 2 March 1995.

In addition to the problem of perception, relying on MILOBS for timely information and analysis is a major handicap as the MILOBS themselves are crippled by lack of transport. One monitor described the frustrations of depending for cars on a team of 28 MILOBS who shared two cars between them and had to conduct mainly foot patrols.

There are several other drawbacks to the dependence on the MILOBS. MILOBS are soldiers and not community policemen. It is not clear what investigative skills they can impart to the largely inexperienced staff of HRFOR.

Furthermore, the new emphasis on para-military style monitoring patrols (see above) tends to disadvantage women because of the heavy reliance on a macho camaraderie with the UN's military forces.

Finally, many monitors feel uncomfortable with the fact that many MILOBS come from countries where the military is notorious for violent abuses of human rights. An Indian officer with UNAMIR II has been specifically linked to some serious human rights incidents in his own country. This problem is not unique to Rwanda: the UN mission to Cambodia was criticised for the fact that countries like Indonesia used it as an opportunity to "clean up" the image of their army.

#### *A Dangerous Dependence: NGOs as Political Guides*

The shortcomings of HRFOR have encouraged many of the monitors to rely on the information and judgement provided by the expatriate and local staff of international organizations and NGOs. This is dangerous in general, and nowhere more clearly than in Rwanda today. Certainly, there are foreign staff of international agencies and NGOs who have made efforts to comprehend the situation in Rwanda in all its political complexity and who try to understand human rights issues in as broad a perspective as possible. The observations and concern of some of these individuals have been noted in this report. But with few exceptions, it is fair to say that the staff of international organizations and NGOs in Rwanda do not have a grasp of the political situation, let alone an incisive analysis.

Just as NGOs are dismissive of HRFOR, the more serious, thoughtful and politically informed monitors are equally critical about international organizations and NGOs. A monitor with a long experience of difficult field situations commented:

I am the first to admit that I have learnt nothing in my time in Rwanda. But certainly the people I have met in the NGOs cannot teach me what I need to learn. There are hundreds of inexperienced kids running around here who know nothing about Rwanda. Worse still, they are not interested. Perhaps it would not matter so much if a million people had not been killed.

I don't regard most of the staff of the NGOs here as very different from the monitors. They too are using Rwanda to build up their CV in a "hardship" post. It is much worse than Somalia because in Somalia the NGOs actually became a target. Here you see the life they and we lead. There's no excuse for the ignorance and lack of impact. Frankly, I don't understand why the local population just does not kick them and us out.

Many monitors spoke of the political biases of the staff of both UN agencies and of a wide range of NGOs. Monitors who have worked in the three préfectures of the former French zone, Gikongoro, Cyangugu and Kibuye, were particularly critical of the expatriate staff of the international agencies and NGOs operating in the area. Their observations extended to both the controversy over the continued existence of camps for the internally displaced camps in Gikongoro and the refugees in Zaire and Burundi. The dangers of depending on NGOs was best expressed by a monitor who worked in Gikongoro:

If I had allowed the agencies and the NGOs to guide me politically in Gikongoro, I would have come away believing that it was our job to protect criminals. I am too embarrassed to tell you the things they say when they feel the conversation is 'en famille'.

Kibeho camp is full of criminals who kill and assault people now in February, never mind what these same people did during the genocide. And yet the NGOs openly make comments like 'We are here to feed these people. It does not matter to us whether they are criminals or not.' I saw some expatriate staff members of NGOs spread lies about the health situation in their efforts to keep the camps open. They don't pay attention to who they hire, which has serious consequences. I have myself had to make emergency arrangements with UNAMIR to fly out a man who got reliable information that he was about to be killed by a gang led by a senior local staff member of an NGO working in Kibeho. This same NGO was very active in saying that the camps should not be closed because it was safer for people there than elsewhere in Rwanda.

Even those who will not go this far say that they cannot make judgements about the genocide in Rwanda because it would make it difficult for them to do their work. The NGOs are our natural counterparts. We are encouraged to regard them as a source of information and advice. In my view, on the whole they help to reinforce the political biases which exist in the leadership of HRFOR.

Another monitor said she was often asked by members of UN agencies and NGOs to "stop poking into graves and asking people questions." She added "The same people are the very ones who pressure us about arrests and other aspects of the current situation."

From African Right's own field research in 1994 and in January-March 1995, it is clear that a substantial number of extremists and killers have worked and continue to work in international agencies and NGOs in Rwanda, in the refugee camps and for international humanitarian organizations in Nairobi.

Men who personally led massacres in Rwanda, men and women who identified their colleagues to the killers, are currently working for humanitarian organizations, a number of them in senior positions in some of the most influential agencies shaping international policy towards Rwanda. Many others have close relatives who are known to have participated in the genocide. Others, including many working in sensitive regions like Gisenyi, Kibuye and Cyangugu, have their entire families as refugees in Zaire.

In Kigali alone there are currently a hundred and twenty-four staff members of NGOs and UN agencies in prison accused of crimes related to the genocide. African Rights has interviewed scores of detained local staff of international organizations and NGOs accused of complicity with the genocide and conducted its own independent research into the allegations.

Given the fact that the genocide of 1994 was planned, encouraged and implemented by educated people, it is hardly surprising that the employees of both local and foreign NGOs have played a prominent role. The appropriate response is to conduct careful checks before employees are hired and to co-operate with the authorities and HRFOR in order to ensure that the accusations are well-founded and justice is done. All too often the reaction is to pressure UN human rights monitors to offer unconditional support to their detained staff and to prejudice their work by complaints about "arbitrary" arrests even where the expatriate staff have no way of knowing whether the accusations are fair or not. Many monitors in the field also complain about the fact that the staff of UN agencies and NGOs often bring their local staff to "brief" them about the current situation. The "briefs" usually consist of a litany of politically-motivated accusations that lack substance.



## Conclusion

Many monitors were unable to talk of their experiences without becoming visibly upset. The sombre assessment given by one woman illuminates the mood among many of her colleagues and highlights the discrepancy between the truth and the rosy picture painted by Mr. Clarence in his conversations with outsiders, including African Rights.

I never expected to be hired. What did I know? But I came to learn. And I have learnt nothing. I knew nothing about Rwanda or Africa but I have professional qualifications and experience which could have been used to do some good for Rwanda. But they have not been. What I have been asked to do the several months I have been here could have been done by anyone who can type. This mission is not only a waste of money; it is a waste of potential. And I feel ashamed to be part of that waste.

You come to Rwanda knowing that the UN pulled out when people were being slaughtered, that the UN was only concerned with evacuating Westerners. As a Westerner I came wanting to compensate for that as well. I feel a sense of responsibility for what the world did to Rwanda. I feel I should do something to make up for the failure of the UN in Rwanda. But I have not been given the chance to do that. Instead, I feel part of another UN mission which is failing the people of Rwanda. I feel ashamed to have been doing nothing, ashamed to be paid so much money for doing nothing, angry to be made into a tourist in a situation like Rwanda. There are no opportunities to make improvements because they do not want to hear any criticism, have any information that will put their actions and judgements in jeopardy.

For a lot of expatriates working in this mission and in the NGOs, it is going to sound great in a living room back in Europe or North America to say that you were in Rwanda in 1994/95. I had really believed I would be working with committed people. The reality makes me feel cheated. This mission is a waste of time, energy, money. It is a waste of potential. But worst of all, it is a waste of hope.

Another monitor echoed the sense of disappointment and betrayal:

I have been here for two months. I have done nothing. I have accomplished nothing. Worse still, I have learned nothing. But worst of all, I am ashamed of being here, doing nothing in a country where there is so much to do. I regret so much joining this mission. It sounded so ideal. The UN in Geneva is fully aware of the mess here. But they keep sending more and more people. Geneva needs to be asked why it is doing this. Is it to show that the UN is doing something for human rights in Rwanda? I would laugh if we were not talking about Rwanda. It would be funny if a million people had not been killed. But they have and knowing that we are not doing anything about it makes me want to cry instead.

The donors also know how hopeless it is. And yet they keep giving money for the mission. The donors should stop funding this mission. It is the biggest waste of money. It even makes UNOSOM [United Nations Operation for Somalia] look good. And that takes some doing.

In a moment of despair, a monitor expressed his desire to quit the mission. Remembering that he had originally regarded HRFOR as an expression of international solidarity with the people of Rwanda, he reflected bitterly on the betrayal of that moment of hope.



We should be here to do whatever we can to keep that hope alive. By being here we raise expectations. Here in Rwanda, our very presence is a statement that the international community came to help Rwanda. If we were seen by the population as people who were serious about doing something useful, I believe it would be an additional contribution in the effort to give people the hope to go on. Instead we have dashed their hopes. This mission is disastrous. It could have been a golden opportunity to do good. The squandering of that opportunity is the ultimate cruelty.

A monitor explained why he had decided not to seek renewal of his contract.

The mission calls into question the entire international human rights machinery. The concepts behind HRFOR are a terrific human rights technique, combining investigations with co-operation with the government, a collaborative effort that requires building two-way relationships. I joined this mission because I am against human rights work that consists of writing critical reports. I was excited about the prospect of working in a human rights project that would help in a practical way to build up mechanisms for protecting human rights.

But I have achieved nothing. And this mission has done nothing for Rwanda. It is my first direct experience in international human rights. And it has really discouraged me from continuing to work in the field of human rights.

The leadership of HRFOR has failed to show a humane, open-minded and constructive approach to the complex political situation in Rwanda. This has in turn influenced many monitors. One of the consequences is that the structure and mandate of HRFOR forces individual monitors into a psychological denial of the reality of the genocide, which then in turn contributes to strange behaviour, naïveté and even paranoia.

The failure of HRFOR is not only a source of distress for the experienced and politically informed monitors. It is also unfortunate for the young and inexperienced who, with the right direction, encouragement and management, could have made a contribution and in the process, learnt something constructive themselves. The very fact that this report was inspired by monitors themselves and is based largely on their information is a tribute to the intelligence, political awareness, humanity and sensitivity of many of the monitors who came to Rwanda with the hope of making a positive contribution.

HRFOR has so far proven to be a complete waste of resources, both human and financial, and a betrayal of the hopes of the Rwandese people. The office of the High Commissioner for Human Rights has appealed for funds to continue the mission. This will be a futile and counter-productive exercise unless HRFOR is thoroughly reformed. African Rights concludes with a set of recommendations that could enable HRFOR to play its wonted role as protector of human rights in Rwanda.

## Recommendations

As presently constituted, the United Nations Human Rights Field Operation in Rwanda (HRFOR) is a waste of resources, human potential and hope. While its mandate on paper is excellent, it cannot begin to fulfil it without profound reforms to its mandate, a transformation of its political relationships, and a dramatic improvement in its levels of professionalism. Most important of all, HRFOR needs to reinstate an investigation of the genocide as the central part of its mandate: until that is done, its efforts will be misguided and futile.

The Government of Rwanda should only renew the agreement for HRFOR only on strict conditions, including a comprehensive reform of the mission. International donors, and the United Nations, should also insist on these transformations before providing additional funds.

The Government of Rwanda, the United Nations and international donors should review the detailed mandate of HRFOR.

- There is a need for an integral mandate, including investigating the genocide, monitoring current abuses, establishing confidence between different sections of the community, and cooperating with the government in building an administration of justice. This in turn requires the establishment of clear lines of responsibility vis-a-vis the International Tribunal, Ministry of Justice, the armed forces, gendarmerie, UNAMIR 11, MILOBS and other related initiatives. While it may be attractive for HRFOR to delegate all responsibility for working on the genocide to other institutions, this will profoundly distort the psychology and politics of HRFOR and undermine its effectiveness. In short, HRFOR must work on the genocide.
- Investigating the genocide must be undertaken with the required levels of professionalism and impartiality.
- The best method of human rights education in Rwanda is action: an end to impunity must be demonstrated by trials of those responsible for the genocide.
- The Technical Cooperation Programme shows promise and should be supported provided an inter-ministerial, inter-institutional working group is established to determine priorities and policies in this area, and to direct external funding in the most appropriate ways.
- Clear aims and procedures are needed for prison visiting. Support to the prison system is also required.
- A clear set of aims and procedures about how to cooperate with arrests of those suspected of involvement in the genocide is necessary. The imperative of ending impunity for human rights abuses needs to be recognized along with the demand for due process of law, to the extent possible in the circumstances. There has to be an acceptance that procedures cannot be perfect, at least at this stage, but this should not lead to a wholesale dismissal of all arrests as completely arbitrary.

The Government of Rwanda, the United Nations and the international donors must insist that HRFOR establishes and maintains its impartiality.

- The imperative of focusing on the genocide must again be stressed. Neglect of the genocide inevitably leads to political partiality.
- A proper balance of monitors is required from coming from countries that have, or are perceived to have, different political slants. The need for monitors who are fluent in French must be balanced against the need for English in today's Rwanda, and the need to recognize that monitors from countries whose governments supported the former government of Rwanda are not seen to be fully impartial.
- The most vulnerable group in Rwanda is the survivors of the genocide. The need to give priority to protecting the survivors must be recognized.
- HRFOR must adopt a supportive rather than a confrontational attitude to government departments. Once confidence is built, then HRFOR's criticisms will be taken seriously rather than dismissed as politically-motivated sniping.
- HRFOR currently falls well below acceptable standards of professionalism. This must be remedied without delay. The Government of Rwanda, the UN and international donors should insist on the following:
  - Monitors need qualifications and experience. Skills include languages and legal training. Some monitors should have specialist skills, such as forensic investigation. Monitors should include former magistrates, police investigators, military attorneys and others with relevant professional experience.
  - Monitors should be given adequate preparations both before they arrive in Rwanda and before they are sent to the field.
  - The head of HRFOR should be someone with experience of comparable human rights operations.
  - Minimum common standards for gathering evidence should be laid down by the International Tribunal, for the monitors to follow, so that the evidence that is collected can be used in the Tribunal.
  - It is essential for monitors to observe minimum standards for human rights monitoring including confidentiality, cross-checking of evidence etc...
  - Human rights monitoring should be conducted in a respectful, culturally-sensitive, low profile, civilian style.

In conclusion, HRFOR as currently constituted does not enjoy the confidence of the people of Rwanda, is not supporting the cause of justice and human rights in the country, and is a waste of resources. African Rights calls upon the Government of Rwanda, the United Nations and the donors to insist on a fundamental reform of the operation as an essential prerequisite to its continued existence.

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## Creating the High Commissioner for Human Rights: The Outside Story

Andrew Clapham\*

This note concentrates on the events of 1993 that culminated in the creation of the new High Commissioner for Human Rights.<sup>1</sup> It is this recent history which really determines the way this office will develop. Although the human rights organizations were at the forefront of the campaign to have a High Commissioner they had to remain outside the drafting room. Their story – 'the outside story' – is that although they were shunned from the process of drafting the resolution, they are now vital to the High Commissioner if he is to implement the terms of that resolution.

### I. Genesis of the Idea: from Attorney-General to 'Big Coordinator'

As far back as 1947, during the drafting of the Universal Declaration of Human Rights, Professor René Cassin from France put forward the idea of an Attorney-General for Human Rights. The idea was that an aggrieved individual would be able to petition the UN Commission on Human Rights and then 'on appeal' to a Court of Human Rights the proposed Attorney-General would assist the individual against the respondent state.<sup>2</sup> In 1950 and 1951 Uruguay submitted a proposal for such an Attorney-General.<sup>3</sup> The Attorney-General was to collect and examine information

\* Representative of Amnesty International at the United Nations, New York, the views expressed are those of the author and should not be taken as the formal position of Amnesty International.

1 For a detailed history of the early discussions of this issue see R.S. Clarke, *A United Nations High Commissioner for Human Rights* (1972).

2 See Clarke, *supra* note 1, at 39-40 and UN Doc. E/CN.4/AC.4/1 (1947).

3 Submitted to the fifth session of the General Assembly and to the seventh session of the Commission on Human Rights respectively. For the details on the fate of these proposals see 'Summary of Information regarding consideration by United Nations organs of the question of the establishment of a post of United Nations High Commissioner for Human Rights', note by the Secretary-General, E/CN.4/Sub.2/1982/26, 30 July 1982.

concerning observance of the Covenant on Civil and Political Rights. In 1963 the idea was taken up by Jacob Blaustein and already the title High Commissioner was seen as too scary; the alternative 'Special Rapporteur' was mooted.<sup>4</sup> In 1964 various meetings were organized by non-governmental organizations (NGOs). These took place first, in Paris under the auspices of the World Veterans Association, second, in London under the auspices of Amnesty International and lastly, in Geneva under the auspices of the International Commission of Jurists. A joint statement and draft General Assembly resolution emerged from a coalition of these and other international NGOs with Sean McBride playing a central role. In 1965 Costa Rica introduced a draft at the Commission on Human Rights.

The idea bounced between the Commission and the General Assembly and by 1977 the Third Committee of the General Assembly actually had before it a draft resolution for adoption concerning the establishment of a High Commissioner for Human Rights. However, Cuba put forward a procedural motion suggesting that the whole issue be passed back to the Commission and this was narrowly adopted by 62 in favour, 49 against and 22 abstentions.

Over the next fifteen years the Human Rights Committee and the Committee on Economic, Social and Cultural Rights came to supervise the two Covenants and other expert treaty bodies were established to supervise other treaties on racial discrimination, discrimination against women, the rights of the child, and torture.<sup>5</sup> In addition so-called thematic mechanisms which could receive and take up complaints were created: the working group on disappearances, the working group on arbitrary detention, the special rapporteur on extrajudicial summary or arbitrary executions, the special rapporteur on torture, the special rapporteur on religious intolerance, the special rapporteur on racism and xenophobia, and the special rapporteur on freedom of expression. Furthermore, country rapporteurs were appointed by the Commission on Human Rights to publicly report on the human rights situations in countries selected by the Commission. By 1993 the list of countries with rapporteurs or advisory services experts included Afghanistan, Cambodia, Cuba, El Salvador, Equatorial Guinea, Guatemala, Haiti, Iran, Iraq, Myanmar, Somalia, Sudan, and the former Yugoslavia. In addition there was an ad hoc working group on South Africa, a special committee on Israeli practices affecting human rights of Palestinian People and a special rapporteur for the Israeli Occupied Territories.

4 Clarke, *supra* note 1, at 46. In 1949 the Consultative Council of Jewish Organizations adopted the term 'High Commissioner' see Clarke, *supra* note 1, at 41.

5 International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of the Child, Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

This is not the place to rehearse the circumstances surrounding the development of these and other mechanisms as well as a range of human rights standards.<sup>6</sup> These developments are mentioned here to demonstrate that the human rights landscape looked very different at the beginning of the 90s than it did at the end of the 70s. But despite this plethora of different mechanisms the UN continues to receive an increasing number of complaints relating to serious human rights violations. In its report to the World Conference on Human Rights, Amnesty International stated that the UN Working Group on Enforced or Involuntary Disappearances had received 17,000 reports of 'disappearances' in 1991; similarly the Special Rapporteur on Torture stated that he had received 'an alarming number of communications'. In the context of internal armed conflict the numbers of death threats and summary executions continues to rise.<sup>7</sup> At the end of 1992 even the Secretary-General of the UN admitted that the UN had to face the fact that they had been unable to effectively end massive human rights violations.<sup>8</sup>

Despite the promise of a 'new world order'<sup>9</sup> the disorder in which the world lay in 1992, together with the heightened expectations surrounding the UN, left many hungry for a new initiative which would harness the capacity of the UN to offer real protection while at the same time speaking out to combat the considerable suffering which was surfacing every day.

The advent of the World Conference on Human Rights forced many involved with human rights to consider the weaknesses in the current system and propose new ideas. In September 1992, at a large conference in Amsterdam hosted by the Dutch Section of Amnesty International, a number of human rights experts and activists agreed on the need for a new office headed by a high-level UN official to respond promptly and effectively to serious violations of human rights, including 'disappearances' and political killings and to become generally a focal point for UN action on human rights.<sup>10</sup> The idea was promoted by Amnesty International at the

6 For a concise summary see Farer and Gaer, 'The UN and Human Rights: At the End of the Beginning', in A. Roberts and B. Kingsbury (eds), *United Nations, Divided World* (1993) 240-296. See also P. Alston (ed.), *The United Nations and Human Rights* (1992).

7 Amnesty International (AI), *World Conference on Human Rights - Facing up to the Failures: Proposals for Improving the Protection of Human Rights by the United Nations*, December 1992, at 4 (*Facing up to the Failures*). See also AI, 'Disappearances' and Political Killings: *Human Rights Crisis of the 1990s* (1994).

8 '[I]f standards and procedures exist for normal situations, the United Nations has not been able to act effectively to bring to an end massive human rights situations. Faced with the barbaric conduct which fills the news media today, the United Nations cannot stand idle or indifferent. The long-term credibility of our organization as a whole will depend upon the success of our responses to this challenge.' 1992 report on the work of the organization, A/47/1 at para. 101.

9 Senator Gareth Evans has noted that General Secretary Gorbachev referred to 'a quest for universal consensus in the movement towards a new world order' in his 1988 UN General Assembly address, but that it was President Bush's 1990 speech to Congress on 11 September 1990 which gave the concept the big push. 'The New World Order and the United Nations', in R. Bustelo and P. Alston (eds), *Whose New World Order?* (1991) 1-10.

10 'Amnesty International souhaite une refonte des structures spécialisées de l'ONU', *Le Monde*, 8 September 1992; Declaration of the International Conference on 'Disappearances' and Political Killings, Amsterdam, 6 September 1992, AI Index ACT 33/02/92.

Tunis regional preparatory meeting to the World Conference in December 1992 and became the centrepiece of its proposals to the World Conference.<sup>11</sup> The idea was included in the governmental declaration at the Costa Rica regional preparatory meeting,<sup>12</sup> having been seriously promoted by the host government. It was seriously discussed by governments and others at the Strasbourg inter-regional expert meeting hosted by the Council of Europe in January 1993, and endorsed in a number of important NGO declarations including the final report of the NGOs meeting before the World Conference:

3. An office of a High Commissioner for Human Rights should be established as a new high-level independent authority within the United Nations system, with the capacity to act rapidly in emergency situations of human rights violations and to ensure the coordination of human rights activities within the United Nations system and the integration of human rights into all United Nations programmes and activities.<sup>13</sup>

According to Susan Marks, the actual Conference 'had both its Nightmare and its Noble Dream'.<sup>14</sup> 'The Nightmare of the Conference was that human rights had nothing to offer the Bosnian women, the Tibetan Buddhist monks, or the Kurds who had come to tell of their suffering... The Noble Dream was that human rights could constrain abuses, if only the right treaties and monitoring organs and implementation strategies and enforcement methods were put in place.'<sup>15</sup> But even those diplomats who sought to fulfil the Noble Dream got little sleep during the Conference as the drafting went into the small hours. Issues such as: including the right to development as a human right; ensuring that the promotion of human rights should be conducted without conditions; including a link to peace-keeping, and the language recognizing the role of NGOs were all contentious enough to leave those involved with a hazy recollection of Vienna as a maniacal two weeks dominated by insomniacs and somnambulants. At the eleventh hour a paragraph went into the Vienna Declaration and Programme of Action and was adopted by consensus by the 171 States present:

18. The World Conference on Human Rights recommends to the General Assembly that, when examining the report of the Conference at its forty-eighth session, it begin, as a matter of priority, consideration of the question of the establishment of a High Commissioner for Human Rights for the promotion and protection of all human rights.

11 See *Facing up to the Failures*, *supra* note 7.

12 '25. We propose that the World Conference consider the possibility of asking the General Assembly to study the feasibility of establishing a United Nations Permanent Commissioner for Human Rights.' 18-22 January 1993, A/CONF.157/PC/58.

13 NGO-Forum final report to the Conference, A/CONF.157/7, at 4. See also Carter Center Colloquium, A/CONF.157/PC/79, at 5; NGO Bangkok Declaration A/CONF.157/ASRM/4.

14 'Nightmare and Noble Dream: The 1993 World Conference on Human Rights', *CLJ* (1994) 54-62.

15 At 54. For details of some of the atmosphere and issues that arose during the Conference see *Human Rights: The New Consensus* prepared by Regency Press in association with UNHCR (1994).



Hardly a ringing endorsement – but a clear message to the General Assembly to finally conclude this issue.

It is now nearly 20 years since the Centre for Human Rights moved from New York to Geneva. Holding the discussion about the High Commissioner at the General Assembly in New York highlighted the Centre's isolation from the agencies and other divisions in New York. The Vienna Declaration had called for better coordination, a system-wide approach to human rights and for the human rights of women to be integrated into the mainstream of United Nations system-wide activity.<sup>16</sup> During the discussions, parallels were often drawn between this post and the recently created Emergency Relief Coordinator. The concept of coordinating what was already going on was something diplomats felt comfortable with. The Secretary-General's scepticism<sup>17</sup> became more muted as he came to accept the will of the General Assembly. By the time of the appointment the Secretary-General had pledged to cooperate and welcomed the High Commissioner to the family of big coordinators.<sup>18</sup>

## II. The Process of Creation: from Mandating the Working Group to Working out a Mandate in Groups

Despite endorsements from a number of Heads of State and Foreign Ministers during the General Debate at the start of the 48th Session of the General Assembly, the topic got off to a difficult start. Western States wanted to start an informal process guided by a facilitator which would come up with a draft resolution which could be then discussed and amended. Others wanted a working group of all Member States with full interpretation and documentation; they also wanted a full discussion of the existing human rights machinery; they felt it was overly selective to discuss the High Commissioner and not the rest of the system. The two sides

16 See paras. 1.4, 1.21, II.1, II.3, II.8, II.14, II.19, II.37 (integration of women's human rights), II.42, II.51, II.82, II.97.

17 On the eve of the World Conference the Secretary-General wrote: 'Both the principles and the practices of human rights are under stress. This is a time for serious discussion, for quiet diplomacy and step-by-step problem solving. Solutions cannot be imposed from the top down. Proposals for new bureaucracies, high-level positions, more procedures and permanent forums, as admirable and well-intentioned as they are, may only arouse discontent and resistance at a time when liberality and leeway are called for. This is a year for dialogue.' *Washington Post*, 9 June 1993.

18 The final resolution decides that the High Commissioner will be responsible for 'Coordination of the human rights promotion and protection activities throughout the United Nations system.' Given the fact that there are over 17 peace-keeping operations with varying human rights mandates, that electoral and development programmes are increasingly taking on human rights education, and that political officers are increasingly looking to the causes of conflict in an attempt to provide some kind of early warning, this fulfills a real need for greater human rights input into the UN's activities around the world. Two years earlier the General Assembly created the post of Emergency Relief Coordinator in another attempt to rationalize the sometimes disorganized activity in the field of disaster relief. See Resolution 46/182.

remained deadlocked for weeks and during this time some States started work on a draft resolution.

Chaired by the Ambassador of Australia, this collection of mainly Western States managed to attract a few African and Latin American participants and eventually circulated a draft non-paper for comment. The prospect that this text might be tabled was catalytic to the agreement to set up the working group. The final compromise was that the working group would be set up and be open to maximum input from governments, it would discuss the creation of the High Commissioner, and only when it had concluded its discussion on that topic would it go on to discuss the other aspects.<sup>19</sup>

The working group was chaired by the Permanent Representative of Ecuador, Ambassador José Ayala Lasso, who would later become the first UN High Commissioner for Human Rights. Although some governments, notably that of China, would have preferred a formal working group meeting at ambassadorial level in plenary, part of the compromise was this informal working group of the Third Committee. Consequently, there were no daily press releases or summary records of the discussion and the meeting was listed as a closed meeting in the Daily Journal of the UN. Over the previous weeks it had been the non-western Member States which had held out for a 'transparent' process, yet before the working group got under way Indonesia (while congratulating the Chair on behalf of the Non-Aligned Movement), raised the issue of the presence of non-governmental representatives in the room.

About five NGO representatives were sitting quietly in the normal place monitoring the opening speeches. NGOs are often present during such working groups and delegates had assured during the previous weeks that NGOs would be present for the work of the working group. During the public part of the debate Cuba had even cited one advantage of a working group over informal discussions as the proper inclusion of NGOs with consultative status. The secretariat clarified that the designation 'closed' meant that there were no records and no press allowed. However, the Chair sensed the spectre of Vienna looming (where discussion over NGO presence had gone on for days<sup>20</sup>) and asked the NGOs to leave, without prejudice to a final decision as to their admission.

19 The full terms of the creation of this working group are reproduced in A/C.3/48/L.85, 11 December 1993.

The paragraph of the Vienna Declaration and Programme of Action which was to be the framework for this second discussion was para. 17 of part II: 'The World Conference on Human Rights recognizes the necessity for a continuing adaptation of the United Nations human rights machinery to the current and future needs in the promotion and protection of human rights, as reflected in the present Declaration and within the framework of a balanced and sustainable development for all people. In particular, the United Nations human rights organs should improve their coordination, efficiency and effectiveness.'

20 See Guest, 'NGOs Face Exclusion from Crucial Drafting Committee', in *The New Consensus*, *supra* note 15, at 173-5.

The Chairman decided to admit NGOs (as a compromise we were to sit in the public gallery). However, the Chairman reserved the right to exclude NGOs when sensitive matters were discussed. Although we attended the next meeting we were excluded from the following one but later re-admitted for subsequent ones. This 'Solomonic' approach to the issue of NGO presence is obviously preferable to total exclusion but begs the question: what is so frightening and gory that threatens to offend NGO sensibilities? Why are governmental representatives so embarrassed about what they have to say? Human rights NGOs deal with horrendous reports of killings and torture every day. It is difficult to imagine what could be said that would shock NGOs. They know that many governments resent UN probes into their affairs and they need to understand the legitimate concerns of States who want more haste, less speed when it comes to creating the High Commissioner.

The Working Group adopted, at the suggestion of its Chairman, the following methodology. The Chairman asked for suggestions on a number of aspects relating to the creation of the Office of High Commissioner: election, qualifications, legal framework, mandate, relationship to the rest of the UN, and resources. This appeal solicited seven responses: from Australia (the earlier draft discussed above), Brazil, Mexico, the Non Aligned Movement (NAM), the European Union, Slovenia and the United States. The Chair also received suggestions from NGOs and invited them to meet with him in order to brief them on issues raised during the sessions from which they had been excluded and hear their views. Additionally, some NGOs sent their suggestions not only to the Chair but to Member States as well.<sup>21</sup>

Based on these suggestions, and the discussion during the meetings of the working group, the Chairman managed to put together non-papers which carefully incorporated most of the different ideas. But, fairly early on, the United States, fearing that the deadline for tabling resolutions was about to pass and that any eventual product of the working group might not reflect their vision of a High Commissioner, decided to table a resolution on the creation of a High Commissioner.<sup>22</sup> The effect of this decision was electric. Coming as it did one minute before the deadline for tabling normal resolutions in the Third Committee, it came as a complete surprise and offended a number of delegations. Now there was a Sword of Damocles hanging over the proceedings. If the working group did not complete its work on the High Commissioner that year the Third Committee would

21 Many NGOs around the world were active at this time. The NGO Liaison Committee, formed in Vienna, was able to inform to some extent the regional and other networks of NGOs so that they could discuss the issue with their governments. Efforts were made so that NGO representatives from 'the South' could come to New York to show that the demand for a High Commissioner was not merely of interest to the West.

Among the papers specially written at this time were Amnesty International's, 'A High Commissioner for Human Rights: Time for Action', October 1993, AI Index IOR 41/35/93; and a joint paper, 'A High Commissioner for Human Rights', by Amnesty International, Fédération des Ligues de Droits de l'Homme, Human Rights Watch, International Human Rights Law Group, International League for Human Rights, Jacob Blaustein Institute for Human Rights, Lawyers Committee for Human Rights.

22 A/C.3/48/L.59, 29 November 1993.

have to take action on the United States' draft. No one knew whether it would pass or fail if it came to a vote.

The Chairman, undeterred, produced a Presidential paper in the form of a draft resolution; while Malaysia submitted a set of proposed amendments to the US draft which would have removed the bulk of the US text and replaced it with a text which more or less reflected the points elaborated in the original NAM paper.<sup>23</sup> At this point it was decided to convert the working group into a drafting group. With regard to NGOs, it was said that Vienna rules applied so that NGOs would be excluded at all times. Again, this is an unfortunate precedent as NGOs often sit in on drafting at the General Assembly in New York in exercises such as the creation of the treaty on the rights of Migrant Workers, or the current draft Convention on the security of UN personnel. Such treaties create concrete legal obligations whilst the High Commissioner resolution merely established a mandate for a UN official. In fact, the final resolution even talks of the need for States and the UN to cooperate with NGOs in the implementation of the World Conference recommendations; but the drafting for this central part of the follow-up to the World Conference was apparently too lurid an activity for the sensitivities of the handful of us who wanted to understand this last phase. The 'transparent open-ended working group' was now an opaque closed drafting group.

At the end of the drafting process no one really admitted that they had made concessions. Yet the final resolution was billed by nearly everyone as the result of compromise even if no one suggested that the final result was actually compromised itself. The central trade-off was as follows: the phrase which stated that the High Commissioner was to 'recognize the importance of promoting a balanced and sustainable development for all people without conditions' was inimical to the Western Group. It implied that the High Commissioner had a role in reviewing aid conditionality linked to human rights, good governance, or even trade for aid links. More seriously, a reference to the inappropriateness of conditionality in a UN resolution could have implications for the activities of UNDP, the World Bank and the IMF. However 'no conditionality' became the rallying cry of many of the key players in the Non-Aligned Movement and the G-77. Moreover, the Presidential text at this point still retained a role for the High Commissioner in dispatching fact-finding missions. The concept of fact-finders arriving at the scene of human rights atrocities was portrayed as interference and as being beyond the fringes of the Charter. Despite the fact that such dispatches were to be made in the context of continuous dialogue between the High Commissioner and governments, after consultation with the Secretary-General, and with the consent of the State concerned, it remained too much for several governments, notably Cuba, India and Iraq. In the end the references to conditionality and fact-finding were both removed.

With hindsight one can see that the fact-finding paragraph had become overloaded with preconditions and caveats. The final version may be vague but it

23 A/C.3/48/L.79, 3 December 1993.

still allows a right of initiative to the High Commissioner. Among other things, it calls for the High Commissioner to play an active role in preventing the continuation of human rights violations around the world. Earlier proposals from members of the Non-Aligned Movement had suggested that the High Commissioner had to wait for a decision of the Human Rights Commission. The final resolution, adopted in plenary on 20 December 1993, does not link the Commissioner's active role to the Commission, and, for the first time, the UN now has a human rights official who can take up human rights concerns with governments without waiting for a mandate from a political body.<sup>24</sup>

### III. Qualities of the Final Resolution and the High Commissioner

The final resolution has a number of important elements. Although many points are more rhetorical than real they illustrate a new plateau at the ideological level which would have been impossible a few years ago. It reaffirms the right to development as a universal and inalienable right fundamental to the rights of the human person; it states that all human rights should be given the same emphasis; it states that the recommendations of Vienna should be implemented by governments and the UN 'in cooperation with non-governmental organizations'; and it recognizes that 'the promotion and protection of all human rights is a legitimate concern of the international community.'

The High Commissioner is to be 'a person of high moral standing and personal integrity and shall possess expertise, including in the field of human rights, and the general knowledge and understanding of diverse cultures necessary for impartial, objective, non-selective and effective performance of the duties of the High Commissioner.' The post is appointed by the Secretary-General and approved by the General Assembly, with due regard for geographical rotation, and has a fixed term of four years with the possibility of one renewal for four years. The High Commissioner is to report to the Commission and through ECOSOC to the General Assembly. The Office of the High Commissioner is to be located in Geneva with a liaison office in New York.

Apart from the crucial right to play 'an active role ... in preventing the continuation of human rights violations throughout the world', mentioned above, the High Commissioner is given a number of responsibilities. The General Assembly decided that the High Commissioner will be the UN official with principal responsibility for UN human rights activities, and that the responsibilities will be 'promoting and protecting the effective enjoyment by all of all civil, cultural,

24 As the Permanent Representative of Indonesia, Ambassador Wisnumurti, reportedly put it, the then head of the Centre for Human Rights had no authority to engage in dialogue with Member States. 'The new High Commissioner will dialogue with all countries and address all human rights issues.' 'NAM Backs Third World Human Rights High Commissioner', *IPS Daily Journal*, 22 December 1993. The final resolution was adopted as Resolution 48/141.

economic, political and social rights. (The alphabetical listing of the rights resolved the age-old problem of which rights to list first.) This catch-all responsibility must cover every imaginable aspect of human rights work. Promoting and protecting the realization of the right to development merits a separate sub-paragraph as does the provision of advisory services and technical assistance. Despite the emphasis on integrating the human rights of women into the mainstream of United Nations system-wide activity in the Vienna Declaration, delegates proved unable to agree on such an explicit function for the High Commissioner.

These wide operational tasks are to be complemented by diplomatic/political tasks such as: engaging in dialogue with all Governments to secure respect for human rights; enhancing international cooperation for the promotion and protection of all human rights; coordination of human rights activities throughout the UN system; rationalization, adaptation, strengthening and streamlining of the UN machinery in the field of human rights, and overall supervision of the Centre for Human Rights.

Of course there are a number of restrictions placed on the High Commissioner. The resolution states that the High Commissioner is to function within the framework of the Charter of the UN including the obligations to respect the sovereignty, territorial integrity and domestic jurisdiction of States. It also states that although the High Commissioner is to have principal responsibility for the UN's human rights activities, this is to be under the direction and authority of the Secretary-General. But the concrete and immediate restrictions come in the form of a totally inadequate budget and personnel commitment. In a bizarre procedure whereby the secretariat alone determines the cost of carrying out all the functions mentioned above, the estimate came down that implementation of the resolution would cost only \$1,888,000 over the next two years. This would provide a salary at the level of Under-Secretary-General for the High Commissioner, two professional staff, three secretarial staff and a travel allowance of \$50,000.<sup>25</sup>

### IV. The Future: from Dialogue to Protection

As predicted at the time, a few months after the adoption of the resolution no one recalls its terms. Instead, everyone has concentrated their attentions on the qualities and activities of the actual incumbent. Ambassador José Ayala Lasso was appointed by the Secretary-General on 1 February 1994 and approved by the General Assembly later that month. He took up his position on 5 April 1994.

The next day the Presidents of Rwanda and Burundi died in an air crash in suspicious circumstances, setting off a wave of violence in Rwanda primarily directed against civilians from the Tutsi minority and opponents of the Rwandan government. Following frantic efforts to evacuate foreign nationals from Rwanda,

25 A/C.3/48/L.87, 14 December 1993.

the Belgian government pulled its contingent out from the United Nations peace-keeping operation there and on 21 April the Security Council reduced the strength of the force from over 2,000 to 260. The horrific killings and mutilations were characterized as genocide by the Secretary-General of the UN and estimates of the deaths had reached 100,000 by the beginning of May.

The High Commissioner asked various UN bodies and non-governmental organizations for suggestions and information. On 4 May he issued a public statement announcing that he would go to Burundi and Rwanda together with a number of UN officials and an independent expert, Louis Joinet.<sup>26</sup> He said he hoped that the Commission would meet in a special session and consider appointing a special rapporteur as well as a team of human rights monitors.<sup>27</sup> He travelled to Burundi and Rwanda and eventually arrived in Kigali and broadcast on Radio Rwanda an address appealing for an end to the human rights abuses.

The Commission did indeed hold a special session on 24 and 25 May, to hear the report of the High Commissioner, and passed a resolution on the 25th appointing a special rapporteur for Rwanda. It also called for the High Commissioner to make arrangements for there to be a team of human rights field officers to assist the special rapporteur, and work with the UN peace-keeping operation, which the Security Council had expanded up to 5,500 on 17 May 1994.<sup>28</sup> The special rapporteur is to travel to Rwanda.

The same day the High Commissioner launched an appeal for a UN programme to 'save the people of Burundi' from the kind of human rights abuses which were taking place in neighbouring Rwanda. He proposed a 'pilot case' of a technical assistance programme to cost \$1.2 m and to last at least two and a half years.<sup>29</sup> On 30 May the High Commissioner announced a 24-hour fax 'hot-line' and computer data base as part of new efforts to handle emergencies such as Rwanda.<sup>30</sup>

Space does not permit an analysis of all these developments but they give a flavour of the concrete impact which the High Commissioner has already had. The emphasis on protection has become a defining feature of the High Commissioner's first concrete proposals whilst the procedural hurdles which might have prevented action do not seem to have materialized.

26 A member of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

27 See also the appeals at this time from various NGOs: 'Amnesty International Launches Public Appeal for Exceptional United Nations Action on Rwanda and Burundi', 3 May 1994, AFR/WU 05/94; Oxfam, 'Genocide in Rwanda: Update I', 7 May 1994; 'A Call for UN Human Rights Action on Rwanda and Burundi', May 1994, AI Index: IOR 41/02/94.

28 The text of the Commission's resolution is contained in E/CN.4/S-3/L.2, 25 May 1993; the report of the High Commissioner is contained in E/CN.4/S-3/3; the Security Council Resolution is Resolution 918.

29 DPI Press Release HR/4004, 27 May 1994.

30 UN Press Release, HR/94/20, 30 May 1994. The number is 44 22 917 0092.

## V. Concluding Remarks

A number of conclusions can be drawn about the relationship between the process of creation and the first steps taken by the High Commissioner.

First, the fact that Ambassador Ayala Lasso himself presided over the tortuous process of creation means that he personally understands the expectations of him and some of the gaps the post is supposed to fill.

Second, the High Commissioner has used the confidence which the Member States had in appointing him to go forward without having to wait for inter-governmental instructions. Of course, Rwanda had become a pariah State in the midst of a humanitarian disaster. Less clear-cut cases will test the independence of the High Commissioner.

Third, despite the heated and secretive discussion over the wording of the mandate, the original wording of the resolution has been of little relevance to the evolution of the Office of the High Commissioner in its first few months. The clear precedent of producing a report in response to an emergency is now established.

Fourth, ironically, the controversy surrounding the creation of the Office has fuelled a sense that this post is more than just another UN bureaucratic job and actually symbolizes humanity's aspirations to achieve greater dignity for all human beings. Despite inadequate resources this high-level official can galvanize things and is more than merely a servant of a UN body.

Fifth, the role of the NGOs in promoting and conceptualizing the idea of a High Commissioner over the years is now reflected in the Office's reliance on them for information, suggestions and support. At the beginning of the Rwanda crisis, the High Commissioner wrote to NGOs asking for assistance. Despite the governmental monopoly on the right to conceive and deliver the High Commissioner, governments have shown little interest in nurturing or providing for the Office in its formative first few months. There have been no expressions of concern about the inadequate resources allocated by the Secretary-General, no recognition by the Security Council of the complementary role of the High Commissioner, and few spontaneous invitations to come to countries to engage in dialogue about the human rights problems. By way of contrast, the NGOs deemed irrelevant to the creation process are now central to the future of the Office. NGOs have always been central in informing the UN about human rights violations. With the advent of the High Commissioner this role will be highlighted, as the Office is to respond on an emergency basis and before governments have taken a political decision that a human rights situation should be the subject of UN scrutiny. It will be in precisely those areas where governments are reluctant to supply information or suggestions that NGOs now have a crucial role to play.

Lastly, the diplomatic skill and air of authority which Ambassador Ayala Lasso brought to the process of creating the High Commissioner has left him with a great deal of credit *vis-à-vis* the governments that eventually approved his appointment. It

is to be hoped that these same governments will allow the Office to work properly to prevent human rights violations. If the respect which is currently shown filters down to the officials and individuals who currently abuse people's rights, then it says a lot about the need for such symbolism and the power of the human rights message. The first signs are there – it was reported in New York that during the High Commissioner's brave visit to Kigali some of the killing was temporarily suspended.



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