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HUMANITARIAN ASSISTANCE

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(UNREO)

*With the compliments of*

A handwritten signature in black ink, appearing to be 'J. K. A.', written over a horizontal line.

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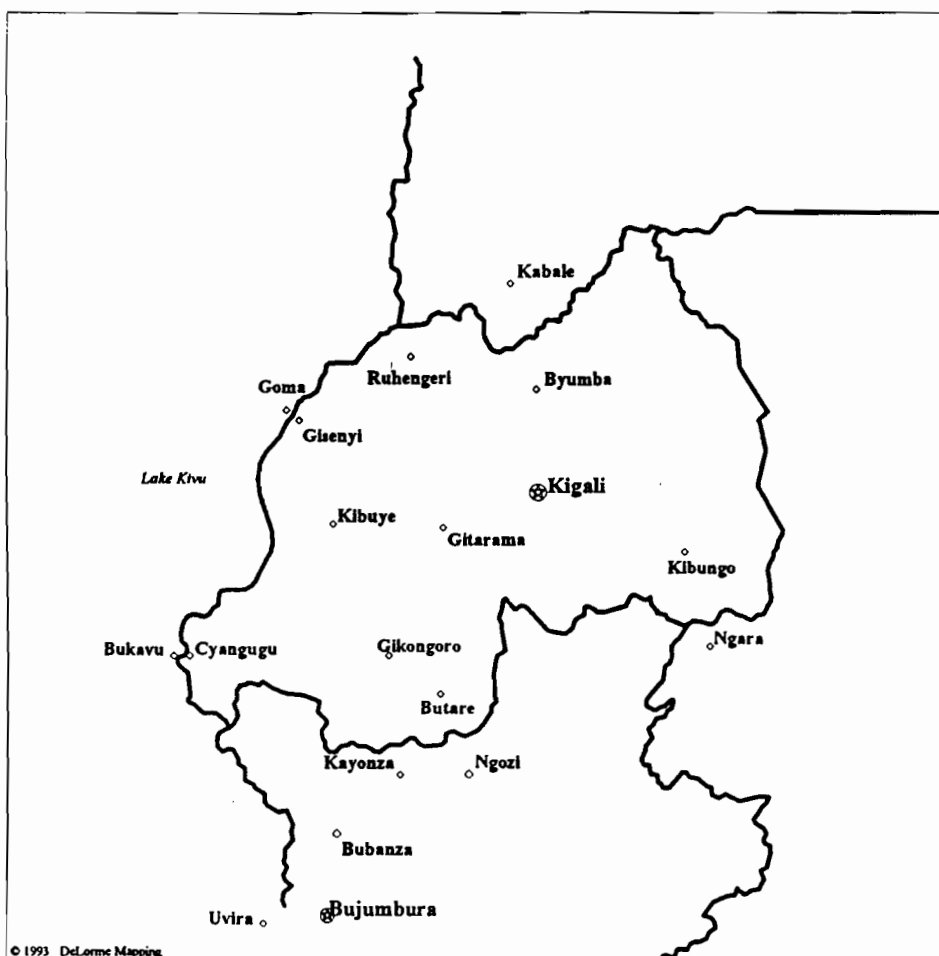


NATIONS UNIES

# R W A N D A

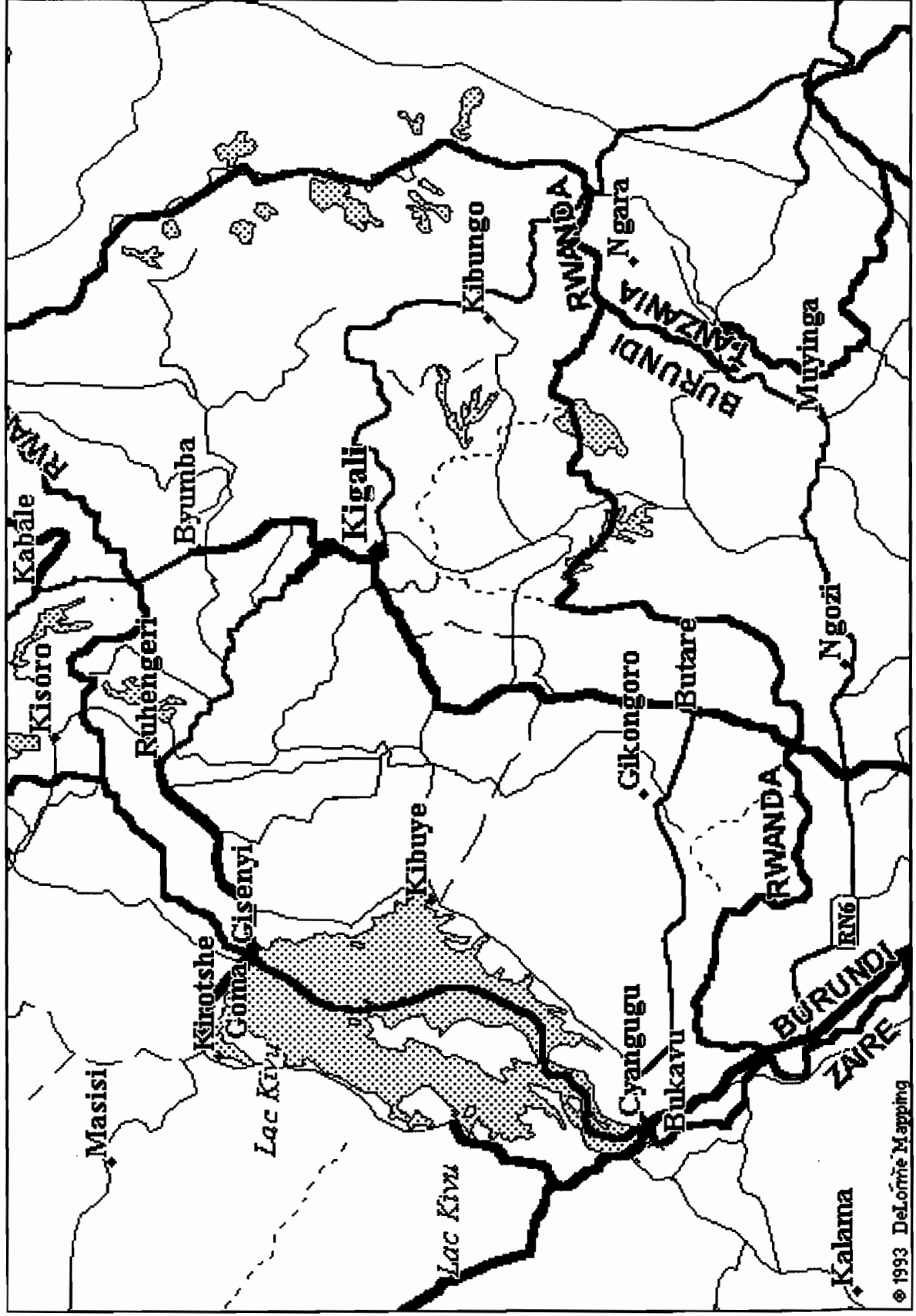
## HUMANITARIAN SITUATION REPORT

Covering the month of July 1995



Office of the Humanitarian Coordinator  
KIGALI, RWANDA

# RWANDA



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## HIGHLIGHTS

Urgent actions have been called for by the United Nations Secretary-General to alleviate the appalling conditions in Rwanda's prisons. Over 50,000 people are now incarcerated mainly in 12 prisons with a capacity of 11,500. With up to four detainees per square meter in some prisons and communal lock-ups, conditions have deteriorated into a humanitarian crisis. Work on new temporary detention centres is underway, but it is feared that many more detainees will die if the overcrowding is not reduced immediately. Seven Commissions de Triage have been established in Rwanda to speed up the release of detainees where there is insufficient evidence to hold them. As yet releases remain low. Only 40 detainees were freed in July. The rate of arrests on charges of genocide has decreased, but remains high at an average of 600 a week.

A Rwandese priest, Father Wencelas Munyeshyaka has been charged in a French court of participating in last year's genocide. He will remain in custody in France until he can be tried.

During a brief visit to Rwanda, Angola, Zaire and Burundi in July, the Secretary-General met with the Presidents of each of the countries, other senior government officials and UN personnel. In a speech delivered at the Rwandan National Assembly, the Secretary-General said that Rwanda must help him to help the country. This included creating conditions to resolve its refugee problem and achieving the objectives set during the Arusha Agreements.

Security generally is reported to be good, but in areas bordering Zaire infiltration by elements of the former government has continued. The recent spate of brutal murders of eight Rwandese, including two Sous-Prefets, have also led to serious concerns. One of the Sous-Prefets had only recently been released from prison after being accused of genocide. Two of the other murders have been linked to a campaign of targeted executions by Interhamwe.

On 12 July, the RPA and Zairian troops exchanged fire for several hours near Panzi camp in Zaire. Three Zairians were injured during the exchange. The Zairian authorities have announced that the camp, which comprises some 400-600 former government military and their families, will be moved further inland.

A proposal to field UN military observers to monitor the sale or supply of arms and material to Rwandese in neighbouring countries has been rejected by Tanzania and Zaire.

Following a steady increase in the number of spontaneous and organised return of refugees who fled from Rwanda last year to Zaire, Burundi and Tanzania, UNHCR has restarted organised repatriation from Goma, Zaire and has been engaged in tripartite arrangements for the return of refugees in Tanzania. Confidence-building measures are underway in Burundi, with organised visits of Rwandese refugees to their home communes. In June, 7,000 refugees from the three countries returned to Rwanda. Figures for July are expected to be higher.

At the July Round Table -Mid-Term Review in Kigali, donors made additional pledges for development in Rwanda and agreed on the need for increased emphasis on the transition from relief to development.

A recently completed census puts the present cattle population of the Mutara region at about 250,000. This is significantly less than previous estimates, yet is still five times greater than the projected carrying capacity of the region. Unseasonably late and heavy rains, however, have helped to mitigate some of the problems expected due to lack of water and grazing. Many cattle are also reported to have been moved south by their owners.

During July, food prices continued to increase throughout the country and are now virtually double the prices in April of this year. The cost of public transport in Kigali also doubled but later reverted to its former level following Government intervention. The value of the Rwandan Franc against the US dollar, meanwhile, steadily decreased during the last week in July but stabilised by the end of the month due to steps taken by the Rwandan Central Bank.

Archbishop Mgr. Desmond Tutu, who visited Rwanda at the end of July, condemned the atrocities perpetrated in last year's genocide, but called for national reconciliation, forgiveness and justice and an end to the cycle of impunity.

Conflict has continued in Burundi and continues to be a source of major concern. The current monthly death rate as a result of attacks is estimated at 800 people. Access roads are subject to constant ambush, rendering the capital, Bujumbra, virtually under siege.

*This Humanitarian Situation Report has been compiled from information gathered from the Government, UN Agencies, UNAMIR, ICRC, IOM, NGOs and Donors. It is produced once a month and seeks to give an up-to-date picture of the progress or constraints in key areas of humanitarian interventions in Rwanda. The report also highlights and analyses political and socio-economic trends in the country to the extent that they may have implications for on-going humanitarian activities. The Office of the Humanitarian Coordinator welcomes contributions from its humanitarian partners.*

## **1. POLITICAL SECURITY DEVELOPMENTS**

### **Political**

The Secretary-General of the United Nations, Dr. Boutros Boutros Ghali visited Rwanda from 13 to 14 July as part of a tour which included Angola, Zaire and Burundi. During his visit to Rwanda, he held talks with senior officials in the country and delivered a speech to the National Assembly. The Secretary-General emphasised the need to distinguish justice from vengeance and called for reconciliation between the country's ethnic communities. He said that policies of exclusion would make it exceedingly difficult for the international community to assist, cooperate and collaborate with Rwanda and with other African countries. The Secretary-General spoke of the need to open dialogue with Rwandese in refugee camps. The responsibility for resolving the refugee problem, he said, lay with Rwanda.

In his meeting with the President and Vice-President of Rwanda, the Secretary-General also discussed the convening of Regional Conference on security, stability and development. During his stay, the Secretary-General visited Nyarubuye church where thousands of people were massacred in the genocide.

The South African Archbishop, Mgr. Desmond Tutu, and his delegation spent three days in Rwanda at the end of July. The Archbishop appealed to Rwandans for forgiveness but said that justice should be done to eradicate the culture of impunity.

July 4 - the first anniversary of the liberation of Kigali by the RPF - was celebrated all over the country. In Kigali, tens

of thousands of people gathered to support the national army. The commemoration was attended by the Burundian Minister of Defense, the Uganda Minister of Health and the Military Commander of Nord Kivu in Zaire. July 3 and 4 were declared public holidays. On 19 July, the first anniversary of the installation of the Government was also celebrated.

Meetings were held in July between the Tanzanian Minister of Defense and Rwanda's Vice-President and Minister of Defense Paul Kagame. The Ministers discussed security, confidence building and rehabilitation of Rwanda. The Burundian Foreign Minister also spent three days in Rwanda in July discussing political issues of common interest and cooperation between the two countries.

Among other notable visitors during the month were the German Minister of Foreign Affairs, Mr. Klans Kinkel, who spent four days in Rwanda and the Minister for Overseas Development and Minister of States for Common Wealth Affairs in the United Kingdom, Baroness Linda Chalker. During his visit, Mr. Kinkel signed an agreement on financial cooperation worth DM 50 million with the Government. Baroness Chalker said that the UK Government is concerned about security in Rwanda and announced that the UK will provide two million pounds sterling for education and justice programmes in Rwanda.

### **Security**

Although security across the country is reported to be generally satisfactory, a recent spate of murders have been reported in the southwest and Gitarama areas. Some, including the murders of two civil servants in



Bugarama, are believed to be part of a campaign of targeted executions by Interhamwe. At least one murder - that of the Sous-Prefet of Ruhango in Gitamara - may be linked to revenge killings for last year's genocide. The Sous-Prefet, Mr Placide Koroni, was killed on 27 July along with his wife, two of his children and a third child who was living in his home. Mr. Koroni had been released from prison by a Commission of Triage only a week before his murder. At the funeral for Mr. Koroni and his family, the Prime Minister of Rwanda, Mr Faustin Twagiramungu, condemned what he called "acts of vengeance". In Gikongoro, Sous-Prefet Habinshuti Aurest was shot dead on 2 August and the corpse of Father Pie Ntahobali of Kamonyi parish in Gitarama prefecture was also found on 2 August.

In addition to almost daily reports of banditry, there have also been a number of incidents in the Gisenyi and Kibuye areas in northwest Rwanda where key installations, such as water and power plants have been sabotaged reportedly by Interhame.

To counter the deteriorating security situation in certain communes, watch groups of civilians have been formed. These groups work closely with the RPA. The RPA has also shifted the position of its troops to protect threatened populations. In addition, local government authorities in some areas have made pleas to the local populations not to harbour individuals from Zaire in their homes.

In a short briefing conference on UNAMIR's new mandate, the UNAMIR Force Commander spoke of concerns regarding the reduction in the number of the UN troops in Rwanda. For the time being, UNAMIR contingents are deployed in 5

sectors, Kigali-Gitarama (sector 1), Byumba-Kibungo (sector 2), Gikongoro-Butare (sector 3), Cyangugu (sector 4), and Ruhengeri-Gisenyi-Kibuye (sector 5). Under the new mandate, the level of troops was cut to 2,300, with further reductions to 1,800 by the end of September 1995. AUSMED, the UN Medical Contingent, is also expected to leave Rwanda at the end of August. A group of five AUSMED personnel, meanwhile, were assaulted by RPA soldiers on 1 August, on the apparent suspicion that the UNAMIR landrover carrying the group had tried to cut into an RPA escort of the presidential motorcade. The Australians were arrested and two of them sustained injuries. Following the intervention of an RPA Major, they were set free and their impounded vehicles, as well as weapons, released.

The UN Secretary-General has told the Security Council that there has been strong opposition from some governments in the region regarding the deployment of UN military observers to monitor the sale or supply of arms and material to Rwandese in exile. Rwanda and Burundi welcomed the proposal but Tanzania and Zaire were opposed to it. The proposal to field observers follows the Security Council's reaffirmation that the arms embargo against Rwanda also applied to Rwandese in neighbouring countries if the arms were for use within Rwanda.

The Rwandan Government, meanwhile, has renewed its call to have the arms embargo lifted. The Security Council has so far agreed only to lift the embargo to allow for the import of explosives to be used in mine clearance. The amendment follows a US Government request to bring in explosives as part of its support to a national demining programme.

## **Development and Reconstruction**

On 6-7 July, delegations from 18 countries, along with the major UN institutions and other international bodies, gathered in Kigali for the Mid-Term Review of the Round Table Conference which had been held in Geneva in January of this year. The Review, organized by the Government with the support of UNDP, afforded participants the opportunity to review progress made in the implementation of the Programme for National Reconciliation and Socio-Economic Rehabilitation and Recovery (Round Table Programme), presented by the Government in Geneva, and to map out a course of action over the coming months.

The period since the Geneva Round Table has seen progress made in the re-establishment of physical infrastructure and in achieving pre-crisis levels of production in such sectors as agriculture. Nevertheless, problems remain in the area of public finances, the resumption of industrial production has been slow, and the country continues to suffer from an acute lack of human resources.

At the Review, international donors affirmed their continued support for the Round Table Programme. Over and above the pledges announced in Geneva (US\$587 million) and the additional contributions made between January and June 1995 (US\$ 360 million), all of which were confirmed at the Review, the donors announced they would make available further funds totalling US\$128 million. They also agreed on the need to accelerate the disbursement and delivery of pledged funds. The Netherlands took the opportunity at the Review to announce the formal resumption of development assistance to Rwanda, suspended after the Kibeho

incident. Similar suspensions, announced by Belgium and the European Union, have also been lifted.

Contributions to the Secretary-General's Trust Fund for Rwanda now total almost \$18 million, US\$ 17 million of which is managed by UNDP. Almost all of the nearly \$13 million received to date by UNDP has been programmed, with 58% of these funds already disbursed. These funds are being used to support a variety of rehabilitation and development projects elaborated within the framework of the Round Table Programme, including, the strengthening of capacity within the justice system, the rehabilitation of key administrative buildings, and the provision of equipment vital to the functioning of the Rwandese public administration.

Additional trust funds managed by DHA have also been mostly spent or pledged. Projects include support for the Ministry of Family and Promotion of Women, communications equipment for the Ministry of Interior and the publication of documents relating to the Genocide Seminar held in Rwanda in January. DHA has also continued through its field office, UNREO, to strengthen the capacity of the Ministry of Rehabilitation and Social Integration to prepare for and coordinate emergency assistance.

The World Bank has currently 11 development projects underway. These are designed to support activities in several sectors of key importance to the national economy, including education, communications, transport, energy, agriculture, the private sector and state companies.

In collaboration with the World Bank and IMF, UNDP has developed and is now implementing a project designed to strengthen the economic, financial and human resources management capacity of the Government through the provision of training, equipment and short-term consultancies to six key Government ministries.

Many Rwandan nationals have professional experience needed by their Government but are currently living in other African countries, Europe or North America. Those who are interested in returning are not always in the position to find employment in advance or to pay the costs of travel and re-establishment. Based on similar programmes implemented by IOM in other countries, IOM has been preparing a program for assistance in the return and reintegration of qualified Rwandan nationals, who could fill vacancies in the Government as well as para-statal and private enterprises. Altogether, in joint procedures of identification and prioritization with the Government of Rwanda, 270 candidates will be matched with vacancies that are considered most important for the rehabilitation process.

### **Economy**

The value of the Rwandese franc against the US dollar plummeted in July, but stabilised by the end of the month. The average price of food in Rwanda, reported to have doubled since April 1994, also increased, along with fares for public transport (see Annex 1). The cost of transport is now back to its former level following Government intervention. Food price increases however, have caused serious concerns, particularly amongst civil servants on low fixed incomes. Although the conditions for the harvest have been excellent, there is a relative scarcity of produce and a reduction in free food assistance. Since the end of the emergency

phase many international NGOs have left Rwanda and UNAMIR has scaled down its activities. The combination of all of this has led to a sharp decrease in the amount of hard currency (US dollars) which is available.

As a short term measure, the National Bank of Rwanda (BNR) requested US\$1 million in cash from the World Bank to be used to ensure an adequate supply of dollars within the Rwandese economy.

### **Justice**

On 5 July the National Assembly began its consideration of a draft law which would allow expatriate judicial personnel to play an active role in the Rwandese justice system. Under its programme to rehabilitate the Rwandese Justice System, UNDP envisages the recruitment of 50 magistrates, prosecutors and investigators for work in Rwanda. After a three day session, MPs sent back the proposal for further clarification. However, a special parliamentary session has been called to reopen the matter.

The High Commissioner for Human Rights (HCHCR) has advised the Government to consider using the services of these legal professionals, as advisories and for on-the-job training for national magistrates and prosecutors, rather than as judges.

In the meantime, one of the candidates identified for the post of Chief Technical Advisor under UNDP's project to support the rehabilitation of the justice sector is scheduled to arrive in Kigali in August. The cell for the coordination of support for the justice sector is expected to be operational at the end of August. A large number of vehicles and office equipment was also received in July under the same UNDP project.

The final details of the UNAMIR, HCHCR, and the Ministry of Justice's joint

project to register all detainees in the country were recently put into place. HCHCR training of personnel from the Ministry of Justice to implement the registration procedure will commence the first week of August.

HCHCR and Government officials scheduled a tentative date of late September/early October for the national Summit on Genocide. The summit will bring international scholars and practitioners with expertise relevant to genocide, the law regarding impunity, and gross human rights abuse to Rwanda for a three-day conference. The Rwandese Government has developed a list of policy makers to participate in the conference. It is hoped that the Summit will act as a launching pad for similar conferences on genocide and impunity in each of the Prefectures.

On 20 July, the UN General Assembly approved US\$ 13.5 million for the International Tribunal for Rwanda. These funds will be used to cover the Tribunal's initial costs through 31 October 1995.

UNICEF and the NGO, Jurists sans Frontiers, will be launching a joint programme in support of the Rwandan judiciary system, in particular the training of lawyers working on cases involving children.

### **Prisons**

Conditions in prisons and other places of detention in Rwanda have been described as a humanitarian nightmare, with hundreds of deaths among the prison population due mostly to overcrowding. The situation in Gitarama Prison is so severe that some inmates cannot even sit down, and there are reports that prolonged standing in filth has led to foot infections so serious that they have required amputation. Some 300-400 detainees are reported to have developed gangrene. The UN Secretary-General has

called for urgent actions to be taken by the Government and international organisations to reduce overcrowding and alleviate conditions.

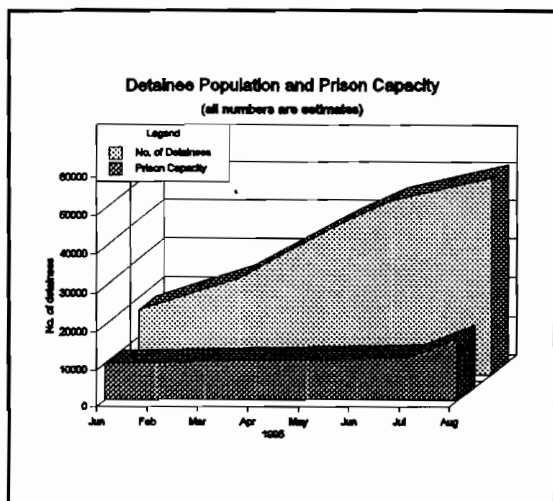
The number of detainees has reached 50,000, and is still growing. Rwanda's main 12 prisons, which have an official capacity of 12,250, now house more than 39,000 detainees. There are also 198 transitory places of detention (mostly communal cachots), which house more than 11,000 detainees on a more or less permanent basis. Thus inmate population is now more than four times greater than official capacity (see Annexes 2-3).

In 1995 so far the average number of arrests per week has exceeded 1000. Recently arrest rates have reportedly dropped to about 600 per week, but even this reduced rate would add another 12,000 inmates by the end of the year. Commissions de Triage have been set up in some prefectures to evaluate the charges against individual detainees, and to release those where the evidence is insufficient to warrant bringing the case to trial, but the rate of review is slow and so far has not alleviated the current overcrowding.

A UNDP sponsored rehabilitation programme has improved conditions in some prisons, and provided minor extensions in two prisons, but has yet to make an appreciable difference in overall prison capacity.

Current Ministry of Justice plans call for opening a temporary detention centre with a capacity of 5,000, and small detention centre specifically for women, by the end of August. Work has also started on four of seven temporary detention facilities to increase capacity by an additional 26,000, potentially before the end of the year. WFP has agreed to vacate three warehouses as part of this plan. Although these measures should help to alleviate the situation to some degree,

these new places of detention are not intended to house detainees for more than a few weeks.



## Human Rights

In addition to monitoring the situation in the field and regular visits to prisons and detention centres, Human Rights officers are undertaking important initiatives which are hoped will improve the present Human Rights situation, as well as facilitate national reconciliation.

Among these are a conference on the rights of women organised by the Technical Cooperation Unit of Human Rights (TCU) in collaboration with a Committee of Rwandese experts. This will be held at the National University in Butare on 6 August. More than one hundred participants, mostly students and university teachers, are expected to participate.

TCU has developed an educational project for the juvenile centre of reeducation and production at Gitagata (CRPG). Following a request of the Director CRPG, a training programme for the staff of the centre is being prepared. It will be implemented in close collaboration with Terre des Hommes and a local NGO.

A programme of Human Rights education for the informal sector, financed in part by the NGO Trocaire is also being finalised. The project deals with the promotion of human rights, and in particular the rights of detainees to due process.

## 2. PROVISION OF HUMANITARIAN ASSISTANCE

### Crop and Food Supply

The FAO/WFP Crop and Food Supply Assessment Mission which visited Rwanda in June estimates the 1995 season 'B' (Jan.-May) cereal output at 78,900 tons, including 64,300 tons of sorghum, 8,300 tons of maize, 5,100 tons of wheat and 1,200 tons of paddy. The harvest of pulses was estimated at 59,500 tons, roots and tubers at 533,900 tons and bananas at 1.044 million tons. Weather conditions and the timely provision of seeds and tools by the donor community enabled the farmers to increase plantings and the aggregate cereal production of season 'B' reflects a sharp recovery (49 percent) over the output of the corresponding season last year, while pulses production almost doubled.

However, compared with the more normal production level of 1990 season 'B', outputs in the 1995 season 'B' were substantially down for all crops mainly due to the adverse effect of population displacement. The shortfall in 1995 is projected at 164,000 tons of cereals and 75,000 tons of beans. This includes 90,000 tons in grain equivalent to cover the net production shortfall of roots and tubers and bananas. After the deduction of projected commercial imports and food aid distributed from January to June 1995, there is a deficit of 103,000 tons of cereals and 37,000 tons of pulses for the second half of the year.

Although indications are that the recovery in the foodcrop production will improve further in 1996 season 'A' (beginning September), provided the security situation remains stable, substantial amounts of food aid continue to be required.

As a follow-up to the June assessment, FAO/WFP have fielded another joint assessment mission to evaluate the impact of agricultural and food-aid distributions implemented in Rwanda over the past twelve months. The second mission will also identify vulnerable groups and propose a distribution system which would best target these beneficiaries, as well as determine agricultural and food-aid needs for the period September-December 1995. This survey, is being conducted in cooperation with the relevant ministries and preliminary results are expected by mid August.

In the meantime, WFP has continued its strategy to decrease free food assistance and focus more on food-for-work and income generating projects. These projects have already increased significantly during July when some 48% of the total food-aid distributed in Rwanda by WFP was channelled through food-for-work (compared to 27% in June). However, vulnerable categories, such as returnees without land and income, orphans and unaccompanied children, will continue to remain a priority for general and targeted distributions,

WFP is also planning to increase its contributions to women's development projects. A joint WFP/Ministry of Family and Women's Promotion identification mission is scheduled for early August, and the task of the mission is to visit all prefectures of Rwanda, prepare an inventory of women's groups and cooperatives and propose ways of assisting all feasible proposals for income generating and food-for-work projects which would facilitate the work of these groups.

In addition, with the objective to assist the rehabilitation and development of local administration structures, WFP has recently started increasing the involvement of local authorities in the identification and implementation of its projects, including food distributions. Many of the recently initiated food-for-work and targeted assistance projects and food-aid distributions of WFP have been overseen and implemented by local committees.

During the month of August 1995, WFP is planning to distribute approximately 6,800 MTs of food to estimated 560,000 people. In the future months, actual food-aid requirements will be adjusted based on the findings of the ongoing field assessments.

### **Logistics**

A recent transport capacity analysis carried out by IOM showed an insufficiency in the private transport sector. Although there has been an increase of vehicles, their service focuses on international heavy goods transport and in-town commuting. UNHCR and IOM which have a combined fleet of 130 buses and trucks are now assisting in the distribution of food and non-food items to the home communes. This is limited in time, for the first priority will be given to the assistance of returning refugees.

The lack of private national transport may prove to be a serious obstacle to both rehabilitation and development programmes. To counter this, IOM, together with the Ministry of Transport and MINIREISO, are designing a Transport Rehabilitation Plan for Rwanda.

### **Livestock**

Action is now underway by FAO to enhance disease control and livestock management, particularly in the Mutara area in the north of the country where cattle



numbers far exceed forage capacity and environmental sustainability. Most of the cattle are owned by recent returnees. A cattle count in July in the Mutara region has put the number of cattle at around 250,000. This is significantly less than previous estimations but still five times too many for the land to sustain. The lower numbers are attributed in part to recent movements of herders. Large herds have been reported in Bugasera, Kibungo, and as far south as Butare. Some cattle, however, are already reported to have died as a result of disease. As part of efforts to alleviate the problems, UNDP has been requested to finance one component of a project which aims at redistributing some of the cattle to cattle deficit areas.

### **Nutrition/ Household Food Security**

In spite of massive amounts of food aid in 1994 and 1995, a recent national nutritional survey undertaken by UNICEF highlights the critical problems which have resulted from conflict and population movements. Preliminary results from the survey show an increase in global acute malnutrition in Rwanda from 3.8% before the war to 9.7% at present. According to the same survey, chronic malnutrition decreased from 56.3% pre-war to 44.4%.

As part of efforts to strengthen household food security, UNICEF has been working with the Government to reestablish a national programme to combat Vitamin A, iron and iodine deficiencies. Technical assistance has also been provided in the development of a national nutrition policy which will be finalised by the end of the year.

UNICEF also in July granted the first credit to a local NGO which will implement four income-generating projects for women's groups. The NGO, 'Duterimbere' or Progress, was the leading Rwandan organisation in credit scheme management

prior to the war in 1994. It was established with assistance from UNICEF and Women's World Banking in 1987. Some of its members survived the massacres and are trying to rebuild the organisation. The projects to be implemented will include livestock rearing, banana-juice production and the setting up of an abattoir.

WFP is providing food-for-work rations (50 kg of maize, 30 kg of beans and 6 kg of oil) to all workers (mainly women) involved in similar projects, relating to vegetable, poultry and livestock production. Food distributions will continue until these beneficiaries reach the level of production which would enable their self-sufficiency. UNICEF also distributed 280 MTS of supplementary food during July.

### **Health**

A booklet of health education messages has been developed by the Ministry of Health and UNICEF to be used by community health workers in an education campaign to be conducted in all 134 communes. Health educators, trained at national level with UNICEF's assistance, will be training the community health workers during August and September.

WHO donated 10 vehicles in July to the National Programme for the Fight Against Aids. Talks were also held during the months between Rwandan and Ugandan health officials regarding cooperation on health matters including the Aids Programme.

Within the wider PAN Project, aimed to provide supplementary feeding for several vulnerable categories of population, WFP is expecting to start, in mid August, the distribution of supplementary food rations to Rwandan families affected by AIDS.

## **Water and Environmental Sanitation (WES)**

The continuing lack of both expertise and manpower, caused by the death and displacement of people during the events of 1994, has made national capacity-building in the water and sanitation field a priority. On-the-job training in spring protection for 200 communal water technicians started with a first group of 25 individuals in Gitarama in a joint effort between the Ministry of Public Works and Energy, UNICEF and other bodies. An agreement has also been reached between UNICEF and the Salvation Army on a separate one-year programme to recruit and train new water technicians in spring protection in Gitarama.

In addition, some of WFP's food-for-work projects have been implemented in the sector of water facilities rehabilitation. Salaries are provided in the form of food to the workers employed on these projects. Several water wells have already been constructed in this manner, most in the Northeast.

## **Children in Especially Difficult Circumstances**

Within the category of 'youth' are included young people from the ages of 14 to 25 who are not covered by the formal education system in Rwanda. Their present situation is not very promising: around 80% currently do not have access to secondary or tertiary education, they lack professional training and are consequently unemployed. The war had destroyed youth associations and vocational training centres and had led to large social, economic and cultural disparities between young people of Rwandan origin who returned from different countries.

With technical, logistical and financial assistance provided by UNICEF, the Ministry of Youth will improve access to education

and training for this group in order to organise productive activities. A project proposal is currently being developed. The Government has also approved the rehabilitation of the Miyove centre for women prisoners and their infants (0-2 years of age). Construction work will be started shortly.

Draft guidelines for unaccompanied children's centres have been prepared by the Government with support from UNICEF and Save the Children's Fund-UK. The guidelines will seek to standardise minimal levels of care and services in the centres, including special emphasis on developing tracing and family reunification activities within each centre.

In order to monitor the conditions of children in centres, the Ministry of Social Affairs and UNICEF have developed a monthly form to be completed by centre staff on issues such as population and age breakdown. Thirteen centres with over 1,500 children have already provided their reports. Some of the findings show that the majority of children are between 6 and 12 years old.

## **Trauma Recovery Programme**

In a four-week intensive course, UNICEF began training a new group of trauma advisors and the staff of the National Trauma Recovery Centre. Topics included child development, basic counselling skills, loss and grief trauma theory, and healing methods. The national survey on trauma is proceeding very well. Some 1,250 children have been interviewed so far. UNICEF staff are working on the data-entry and preliminary results will be ready by mid-August.

## **Education**

As part of a visiting professors project, 50 professors from Uganda began teaching classes at Rwanda's National University on 24 July until the end of



September. It has been announced that Howard University of Washington DC will also assist the University, especially the Faculty of Medicine, through the provision of lecturers starting from next year. UNDP has recently met with the Government to discuss other steps which need to be taken to reopen the University.

As a follow-up to the seminar on non-formal education, UNICEF, UNESCO and Government partners sent out a team to the field to identify three pilot sites for the location of vocational training centres. It was also decided that a national survey on the existing standards and infrastructure of the non-formal education system will be conducted.

UNICEF and several NGOs (AFSEA, SCF-UK, CONCERN and CARE) are developing a curriculum for the training of 35 post-secondary students in social work. The main components will include tracing and reunification methodologies, trauma counseling, conflict resolution, child rights and communications skills. The students will be offered internships for two and a half months with NGOs working with unaccompanied children and demobilised child soldiers.

A seminar on Education for Peace was also organised in July by UNICEF with participation from Government Ministries, NGOs and other institutions.

As its contribution to the rehabilitation of the education sector, during July, WFP distributed monthly, family-size food-for-work rations to around 17,000 primary school teachers, nation-wide, and supplied all basic food commodities for the feeding of 16,500 secondary schools students in the prefectures of Byumba, Kigali, Kibungo, Gikongoro, Cyangugu and Kibuye. Secondary schools students in the remaining prefectures were covered by ICRC.

## **Displaced Persons**

Human Rights field officers, UNHCR, MILOBs, and UNREO continue to monitor the situation in communes to where large numbers of former camp populations have returned. The situation is mixed. In some areas, people are reported to have integrated well and are currently engaged in agricultural production. In other areas, former camp populations have not yet registered, have gone into hiding, or are living in communes where they are not from. Housing and land disputes have also increased, due to the return of displaced persons and returnees.

To support local officials cope with the influxes into the communes, UNDP has provided emergency institutional support in communes in six prefectures through the delivery of office equipment, motorcycles and bicycles. The remaining funds will be used to support the construction of 600 houses in 11 target communes which suffered the most damage in the 1994 civil war and genocide. WFP food for work projects totalling US\$ 774,000 will enable local residents, under the supervision of experienced bricklayers, to construct the houses. The bricks will also be made locally.

An agreement for a US\$ 2.4 million project between the African Fund for Habitat and the Rwandan Government will be signed shortly for the building of some 10,000 houses for genocide survivors and returnees.

## **3. REGIONAL ISSUES**

### **Returnees**

There has continued to be an increase in July of returnees who fled last year, particularly from Burundi through Kanyaru and Gisenyi borders and from Goma through Gisenyi. Negotiations are currently underway with the authorities to try to arrange permission for IOM's Goma-based trucks to disembark at a suitable transfer place further

inside Rwanda. This will avoid a bottleneck at the border if the number of returnees increase. Beneficiaries have been registered in IOM operated way stations and temporary transit centres where primary health care and first survival essentials have also been offered by NGOs.

In addition to those assisted by UNHCR and IOM, the number of spontaneous returns from Burundi, and less so Zaire and Tanzania, is reported to have significantly increased. The spontaneous returns have led to some concerns for the well-being of these people. Without registering with UNHCR for repatriation, the returnees can not easily be provided with the normal type of repatriation assistance, food and other relief supplies. Many of these returnees are also not registering in their communes and so are not eligible for regular food distribution.

In agreement with MINIREISO and UNHCR, the reception centre in Gisenyi for old caseload returnees was vacuated by IOM at the beginning of July. The residents were settled in other regions of the country. Old caseload refugees continue to return to the northwest but are now moved directly by IOM towards resettlement areas.

Among the projects initiated most recently is the two-month distribution of full food rations to 15,800 returnees in Mutura region (Gisenyi). A similar WFP project is being prepared for returnees in the Northeast.

In June some 7,880 refugees are estimated by MILOBS to have returned to Rwanda from neighbouring countries. More were expected in July (see charts included as annexes).

**a. Zaire**

Due to some encouraging signs for repatriation, on 5 July UNHCR resumed its voluntary repatriation programme for the

Rwandese refugee camps in Goma, Zaire. An initial small group of 20 Rwandese were transported from the Kibumba camp in Goma to their home communes. Throughout July there was a steady increase in the numbers from Goma returning either with assistance or spontaneously. The camps in Goma hold about 721,000 of the more than one million Rwandese refugees who fled to Zaire one year ago.

Also in July, the Government of Zaire announced that Panzi a F.A.R. camp a few kilometers south of Bukavu will be moved further inland. The camp has a total population of 2500, some 400-600 soldiers and their families. UNHCR has stated that all weapons must be handed in, then the population will be treated as normal refugees in the new location (no NGOs presently service this camp). It is also reported that all the sites in Idjwe island will be moved to a new undisclosed location.

**b. Burundi**

Numbers of spontaneous returns of refugees from Burundi to Rwanda increased in June with a further rise in July. As part of confidence building measures a delegation of 20 representatives from Rwandese refugees from Burundi arrived in Rwanda to assess the conditions in their home communes. Senior Rwandan and Burundi Government delegations have also visited the camps in Burundi. Currently, there are some 180,000 Rwandese refugees in Burundi.

**c. Tanzania**

Tripartite discussions were underway in July for the repatriation of refugees in Tanzania. A three day meeting was held between UNHCR and representatives of the Tanzania and Rwanda Government in Kigali to discuss arrangements. Tanzania hosts some 600,000 Rwandese refugees.

d. **Plan of Action for  
Refugee/IDP Resettlement**

At the Round Table Mid-Term Review, held in Kigali on 6-7 July, the Minister of Rehabilitation presented the Government's new Plan of Action for Refugee/IDP Resettlement. The Plan envisages a series of actions designed to meet the basic needs of returnees with priority initially given to seven sites identified by the Government for resettlement. These actions include the physical rehabilitation of social infrastructure (schools and health centres), the construction of housing, the promotion of small-scale, income-generating activities in the countryside, and the reform of existing land ownership legislation. Specific projects are now being drawn up with a view to implementing those components of the Plan of Action for which donor funding becomes available. The donor community has, to date, pledged \$72 million worth of support for the Plan of Action against its \$205 million total cost.

**4. INTER-AGENCY RWANDA  
CONSOLIDATED APPEAL**

Although further donations have been sought by UN Agencies for programmes outlined in the 1995 UN Consolidated Inter-Agency Appeal for Rwanda and the sub-continent, there has been little change in overall funding since the last report.

However, as a result of a recent UNHCR programme review, UNHCR has now reduced its request for 1995 by some US\$28 million from the original budget. This reflects limited progress in repatriation as well as shortfalls in donations. With the reduction, the total Appeal for Rwanda and the Sub-Region stands at US\$774,416,718. Against this, funds available amount to US\$ 495,125,337 (see Table 1).

On 31 July, WFP also released a Rwanda/Burundi Regional Emergency Update, detailing food shortfalls and its cash priorities until the end of year. These priorities, totalling US\$18.53 million, include funds needed for non-food requirements, cash contributions to meet monitoring and operational support costs, and for infrastructure improvements.

**Table I: 1995 UN Consolidated Inter-Agency Appeal for  
Persons Affected by the Crisis in Rwanda ( Rwanda and the Sub-Region)  
Summary of requirements and Contributions - By Appealing Agency  
as of 10 July 1995**

*Compiled by DHA(FTS/CESU) on the basis of information provided by the respective appealing organizations*

| <b>Appealing Organizations</b> | <b>Adjusted Requirements (US\$)</b> | <b>Pledges/ Contributions (US\$)</b> | <b>Carryover Funds (US\$)</b> | <b>Total Funds Available (US\$)</b> | <b>Shortfall (Surplus) (US\$)</b> |
|--------------------------------|-------------------------------------|--------------------------------------|-------------------------------|-------------------------------------|-----------------------------------|
| FAO***                         | 18,531,700                          | 905,516                              | 11,411,173                    | 12,316,689                          | 6,215,011                         |
| UNICEF                         | 66,812,000                          | 18,323,677                           | 23,800,000                    | 42,123,677                          | 24,688,323                        |
| UNHCR**                        | 263,262,234                         | 98,507,642                           | 27,400,000                    | 125,907,642                         | 137,354,592                       |
| UNDP                           | 1,370,000                           | 0                                    | -                             | 0                                   | 1,370,000                         |
| UNESCO                         | 6,629,540                           | 0                                    | -                             | 0                                   | 6,629,540                         |
| UNHCHR                         | 10,153,050                          | 5,306,148                            | -                             | 5,306,148                           | 4,846,902                         |
| UNIFEM                         | 1,350,000                           | 200,150                              | -                             | 200,150                             | 1,149,850                         |
| UNV                            | 1,327,064                           | 119,048                              | -                             | 119,048                             | 1,208,016                         |
| WFP (Food & Non-Food)*         | 376,842,590                         | 212,038,499                          | 92,262,986                    | 304,301,485                         | 76,571,204                        |
| WHO                            | 11,469,927                          | 3,238,850                            | -                             | 3,238,850                           | 8,231,077                         |
| UNREO/DHA                      | 2,003,900                           | 1,017,654                            | -                             | 1,017,654                           | 986,246                           |
| IOM                            | 10,539,800                          | 461,641                              | -                             | 461,641                             | 10,078,159                        |
| NGOs                           | 4,124,913                           | 132,353                              | -                             | 132,353                             | 3,992,560                         |
| <b>GRAND TOTAL</b>             | <b>774,416,718</b>                  | <b>340,251,178</b>                   | <b>154,874,159</b>            | <b>495,125,337</b>                  | <b>283,321,480</b>                |

\* *Note that for WFP, the shortfall may not equal adjusted requirements less income as WFP has chosen to reflect the accurate outstanding needs (depending on borrowings, loans, etc of food) for the region until the end of the year. Note also that the requirements have not been adjusted since the month of June and will probably be revised in the next financial update.*

\*\* *As a result of the recent UNHCR programme review, total requirements are now estimated at US\$263.3 million, a reduction of US\$28.5 million from the original programme budget.*

\*\*\* *In 1995, minimal needs in terms of seed and tools (US\$11.4) have been covered by the European Community and carryover pledges channelled through FAO.*

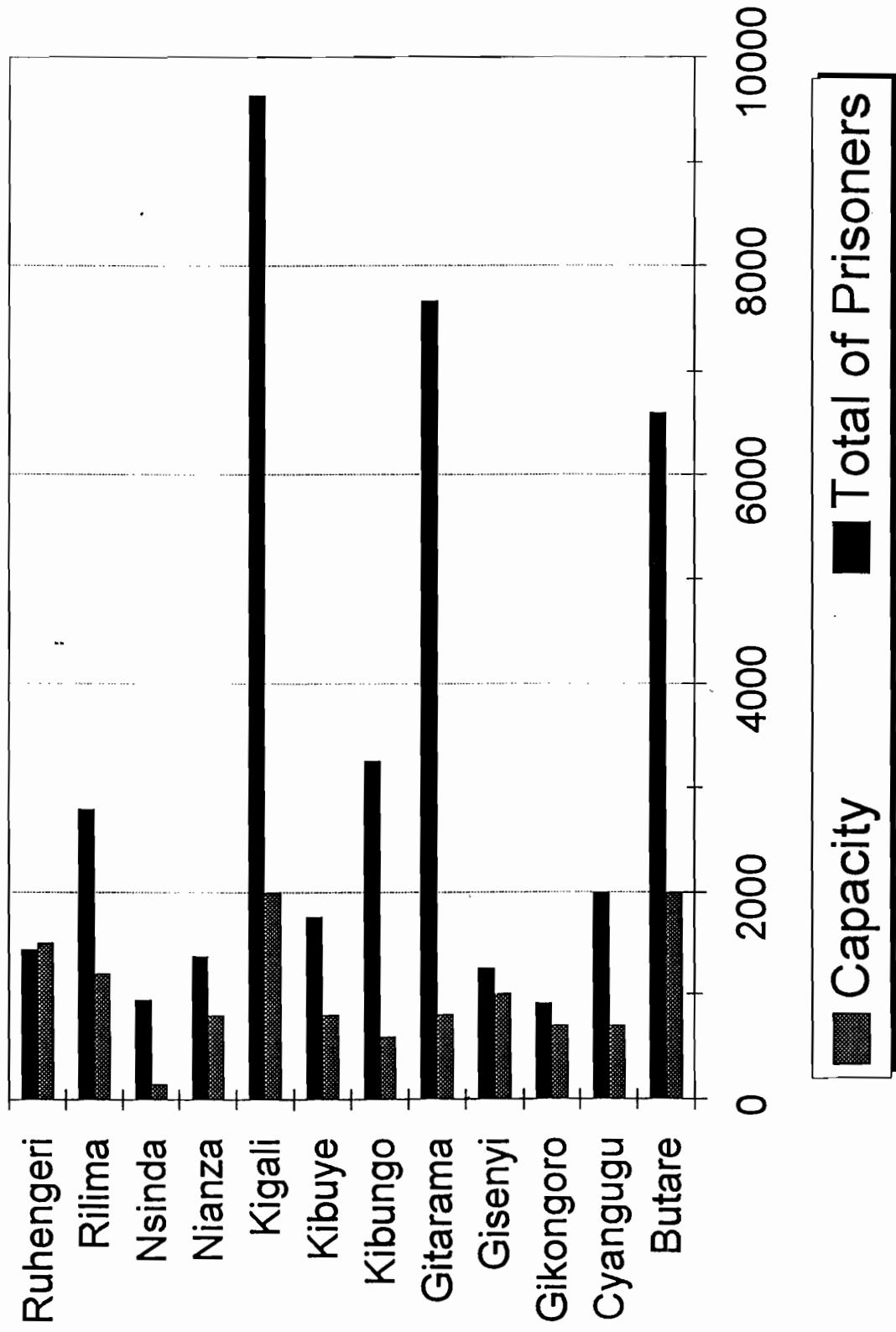
**PRICE CHANGES IN KIGALI (RWF)**

| <b>Item Description</b>                          | <b>Price<br/>April 15-95</b> | <b>Price<br/>July 15-95</b> |
|--|------------------------------|-----------------------------|
| - BEANS, 1 KG                                    | 45                           | 120                         |
| - IRISH POTATOES, 1KG                            | 12                           | 60                          |
| - RICE, 1 KG                                     | 150                          | 250                         |
| - CASSAVA FLOUR, 1KG                             | 25                           | 80                          |
| - GREEN PEAS, 1 KG                               | 150                          | 400                         |
| - MILK POWDER NIDO 450 GRS                       | 350                          | 1200                        |
| - BANANAS, 1 KG                                  | 15                           | 60                          |
| - FISH, PIECE                                    | 35                           | 100                         |
| - FISH, 1KG                                      | 1000                         | 1700                        |
| - BREAD, ONE PIECE OF 500 GRS                    | 150                          | 300                         |
| - ONIONS, 1 KG                                   | 100                          | 200                         |
| - TOMATOES (NATURAL), 1KG                        | 700                          | 1200                        |
| - TOMATOES (TINS), ONE UNIT                      | 30                           | 100                         |
| - COOKING OIL USA, 4L                            | 1200                         | 3000                        |
| - PETROL, 1 L                                    | 150                          | 250                         |
| - FUEL, 1 L                                      | 170                          | 220                         |
| - EGG, ONE PIECE                                 | 15                           | 50                          |
| - MUTZIG, 65 CL                                  | 300                          | 350                         |
| - SUGAR, 1KG                                     | 200                          | 350                         |
| - MEAT, 1 KG                                     | 350                          | 800                         |
| <b>CLOTHES</b>                                   |                              |                             |
| - 1 SHIRT  | 2500                         | 4500                        |
| - 1 TROUSER                                      | 3500                         | 6000                        |
| - 1 PAIR OF SHOES                                | 4000                         | 15000                       |
| - 1 SKIRT  | 4000                         | 9000                        |
| - TRANSPORT (IN TOWN)                            |                              |                             |
| - BUS  | 30                           | 50                          |
| - TAXI-MOTO                                      | 100                          | 300                         |
| - TAXI-AUTO                                      | 1000                         | 3000                        |
| <b>MISCELLANEOUS</b>                             |                              |                             |
| - RENT A HOUSE WITH 1 ROOM AND<br>1 SITTING ROOM | 2000                         | 5000                        |
| - 1 RADIO  | 15000                        | 40000                       |
| - 1 WATCH  | 2500                         | 4000                        |
| - 1 SIMPLE BROCHETTE                             | 100                          | 200                         |
| - 1 CHICKEN                                      | 500                          | 2500                        |
| - 1 CUBE OF WASHING SOAP                         | 30                           | 80                          |
| - 1 PIECE OF BANANA                              | 10                           | 30                          |

SOURCE: NGO STEERING COMMITTEE

# Prisons in Rwanda

Date: 26 July 1995



# PRISONS IN RWANDA

Date 26 July 1995

| Prison             | Capacity | Total of Prisoners | % of Capacity | Men   | Women | Minors | Infants | Date      |
|--------------------|----------|--------------------|---------------|-------|-------|--------|---------|-----------|
| Butare             | 2000     | 6610               | 331%          | 6303  | 216   | 91     | 58      | 20-Jul-95 |
| Cyangugu           | 700      | 2003               | 286%          | 1935  | 26    | 40     | 2       | 17-Jul-95 |
| Gikongoro          | 700      | 900                | 129%          | 871   | 12    | 17     | 0       | 13-Jul-95 |
| Gisenyi            | 1000     | 1244               | 124%          | 1183  | 26    | 35     | 10      | 21-Jul-95 |
| Gitarama           | 800      | 7669               | 959%          | 6143  | 218   | 64     | 22      | 25-Jul-95 |
| Kibungo            | 600      | 3250               | 542%          | 3121  | 71    | 58     | 9       | 16-Jul-95 |
| Kibuye             | 800      | 1758               | 220%          | 1688  | 45    | 25     | 3       | 13-Jul-95 |
| Kigali             | 2000     | 9642               | 482%          | 9080  | 335   | 227    | 75      | 19-Jul-95 |
| Nianza             | 800      | 1368               | 171%          | 1263  | 81    | 24     | 8       | 20-Jul-95 |
| Nsinda             | 150      | 943                | 629%          | 894   | 24    | 25     | 2       | 13-Jul-95 |
| Rulima             | 1200     | 2795               | 233%          | 2719  | 12    | 64     | 2       | 7-Jul-95  |
| Ruhengeri          | 1500     | 1428               | 95%           | 1381  | 20    | 27     | 6       | 14-Jul-95 |
| Total of Prisoners | 12250    | 33076              | 270%          | 36581 | 1086  | 697    | 197     |           |

# REFUGEE RETURNS - JUL 95 - BY SECTOR

| DATE   | 1A  |     | 2A  |     |     | 2B  |     | 3A   |     | 3B  |     | 4    |     | 5A   |     | 5B  |  |
|--------|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|------|-----|------|-----|-----|--|
|        | BDI | GAT | KAG | BUZ | TNZ | BDI | BDI | BDI  | BDI | BDI | BDI | ZRE  | UGA | ZRE  | UGA |     |  |
| 01 JUL | 33  | 18  | 30  | 0   | 0   | NTR | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 6   | 98  |  |
| 02 JUL | 0   | 92  | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 112 | 0   | 0    | 0   | 0    | 0   | 15  |  |
| 03 JUL | 0   | 33  | 18  | 0   | 30  | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 98  | 6   |  |
| 04 JUL | 0   | 85  | 18  | 0   | 0   | 0   | 0   | 0    | 0   | 55  | 0   | 0    | 0   | 0    | 16  | 6   |  |
| 05 JUL | 0   | 97  | 55  | 0   | 0   | 0   | 0   | 0    | 0   | 55  | 0   | 0    | 0   | 0    | 39  | 6   |  |
| 06 JUL | 0   | 20  | 17  | 0   | 0   | 29  | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 129 | 0   |  |
| 07 JUL | 0   | 66  | 26  | 0   | 56  | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 128 | 0   |  |
| 08 JUL | 0   | 57  | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 56  | 0   |  |
| 09 JUL | 0   | 11  | 0   | 0   | 0   | 0   | NTR | 0    | 0   | 0   | 5   | 0    | 0   | 0    | 18  | 2   |  |
| 10 JUL | 0   | 20  | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 24  | 0   | 0    | 0   | 0    | 121 | 0   |  |
| 11 JUL | 0   | NTR | 0   | 0   | 125 | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 94  | 4   |  |
| 12 JUL | 0   | 25  | 0   | 0   | 125 | 0   | NTR | 0    | NTR | NTR | 0   | 0    | 0   | 4    | 376 | 15  |  |
| 13 JUL | 0   | 0   | 0   | 0   | 0   | NTR | 0   | 0    | 0   | 430 | 0   | 0    | 0   | 0    | 101 | 0   |  |
| 14 JUL | 0   | 0   | 0   | 0   | 184 | 0   | 0   | 0    | 0   | 4   | 0   | 0    | 0   | 0    | 30  | 9   |  |
| 15 JUL | 0   | 0   | 0   | NTR | NTR | NTR | 0   | 0    | 0   | 798 | 0   | NTR  | 0   | 0    | 43  | 0   |  |
| 16 JUL | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 31  | 1   |  |
| 17 JUL | 0   | 25  | 0   | NTR | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 133 | 3   |  |
| 18 JUL | 0   | 25  | 0   | NTR | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 119 | 3   |  |
| 19 JUL | 0   | 1   | 36  | 0   | NTR | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 140  | 0   | 119 |  |
| 20 JUL | 28  | 0   | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 13   | 0   | 34  |  |
| 21 JUL | 114 | 35  | 26  | 33  | NTR | 0   | 0   | 0    | 0   | 68  | 0   | 0    | 0   | 0    | 119 | 3   |  |
| 22 JUL | 0   | 29  | 0   | 0   | NTR | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 2   | 11   | 0   | 0   |  |
| 23 JUL | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 91   | 0   | 160 |  |
| 24 JUL | 0   | 32  | 0   | 0   | NTR | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 0   | 0    | 11  | 0   |  |
| 25 JUL | 33  | 34  | NTR | NTR | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 2   | 369  | 0   | 0   |  |
| 26 JUL | 33  | 28  | NTR | 44  | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 5   | 21   | 266 | 0   |  |
| 27 JUL | 0   | 0   | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 166 | 0   | 113  | 0   | 79   | 0   | 0   |  |
| 28 JUL | 0   | 22  | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 416 | 0   | 17   | 0   | 33   | 0   | 0   |  |
| 29 JUL | 114 | 22  | 0   | 0   | NTR | 0   | 0   | 0    | 0   | 0   | 0   | 15   | 0   | 32   | 0   | 0   |  |
| 30 JUL | 0   | 5   | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 32   | 5   | 10   | 0   | 0   |  |
| 31 JUL | 0   | 13  | 0   | 0   | 0   | 0   | 0   | 0    | 0   | 0   | 0   | 0    | 6   | 98   | 0   | 0   |  |
|        | 355 | 795 | 226 | 77  | 520 | 29  | 0   | 2128 | 10  | 517 | 40  | 2879 | 175 | 7751 |     |     |  |

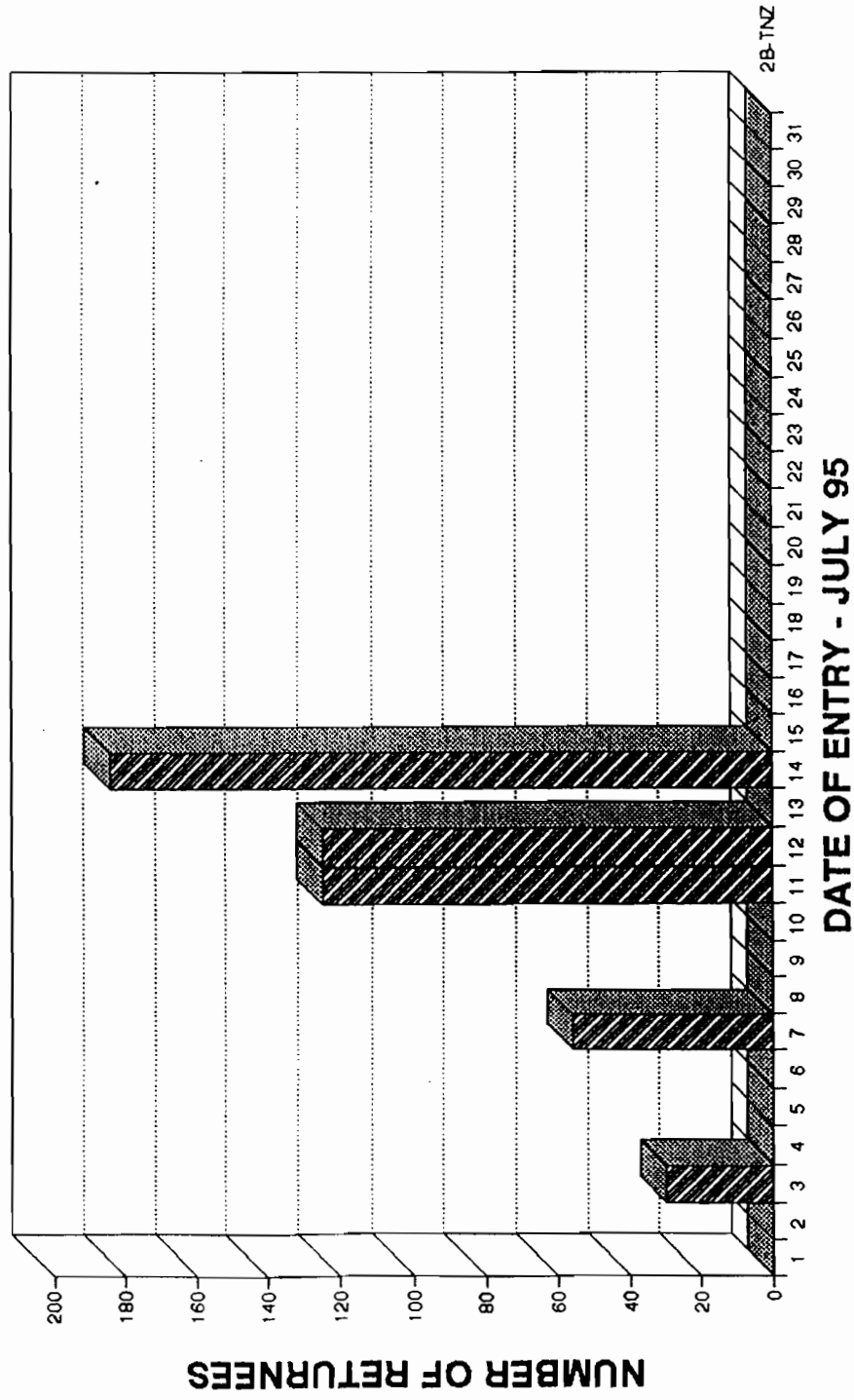
BDI - BURUNDI  
GAT - GATUNA  
KAG - KAGITUM  
BUZ - BUZIMBA  
TNZ - TANZANIA  
UGA - UGANDA

Source: UNAMIR Military Observers, and the Humanitarian Assistance Cell



# RETURNEES - TANZANIA

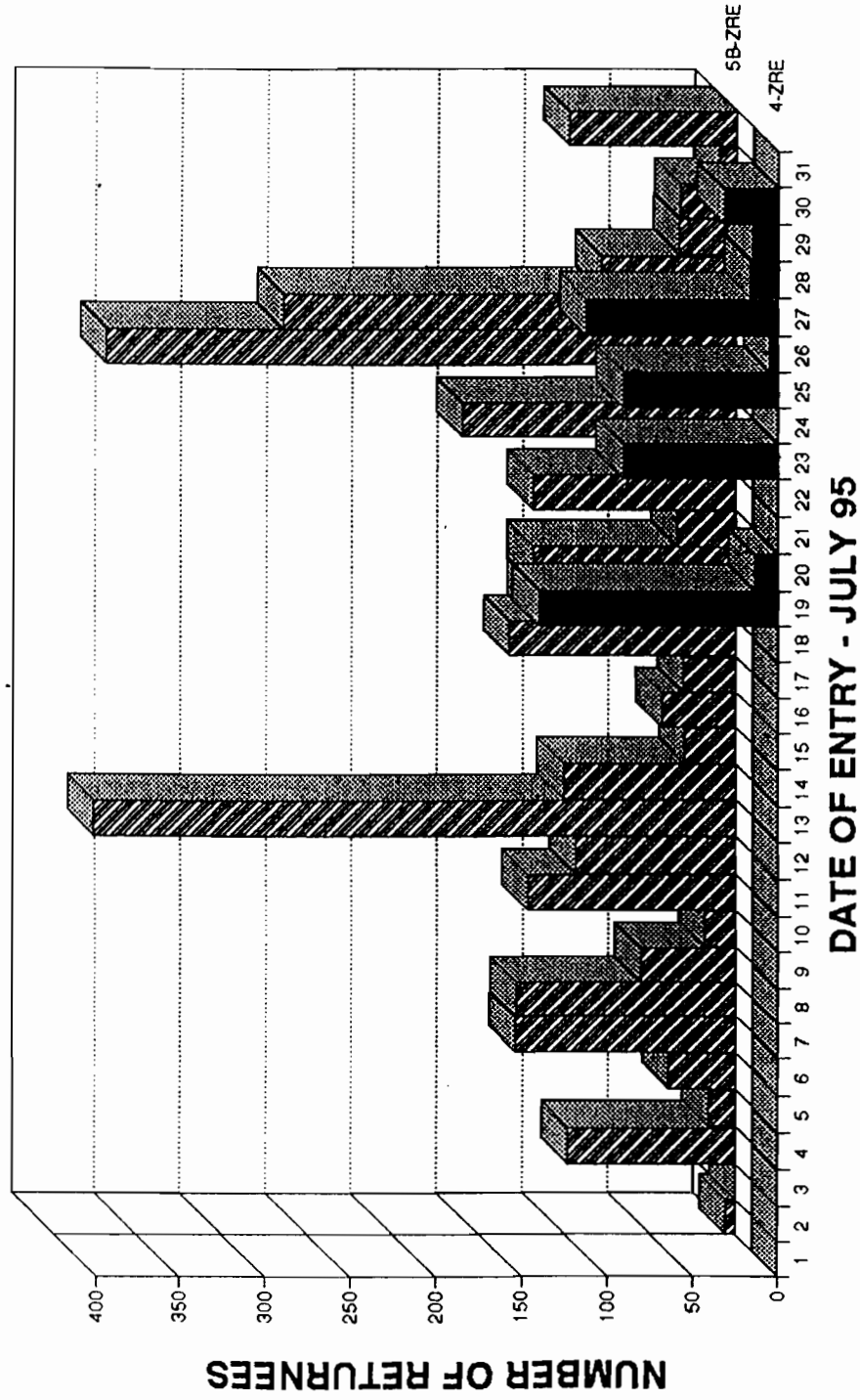
01 - 31 JULY 1995



Source: UNAMIR Military Observers, and the Humanitarian Assistance Cell

# RETURNEES - ZAIRE

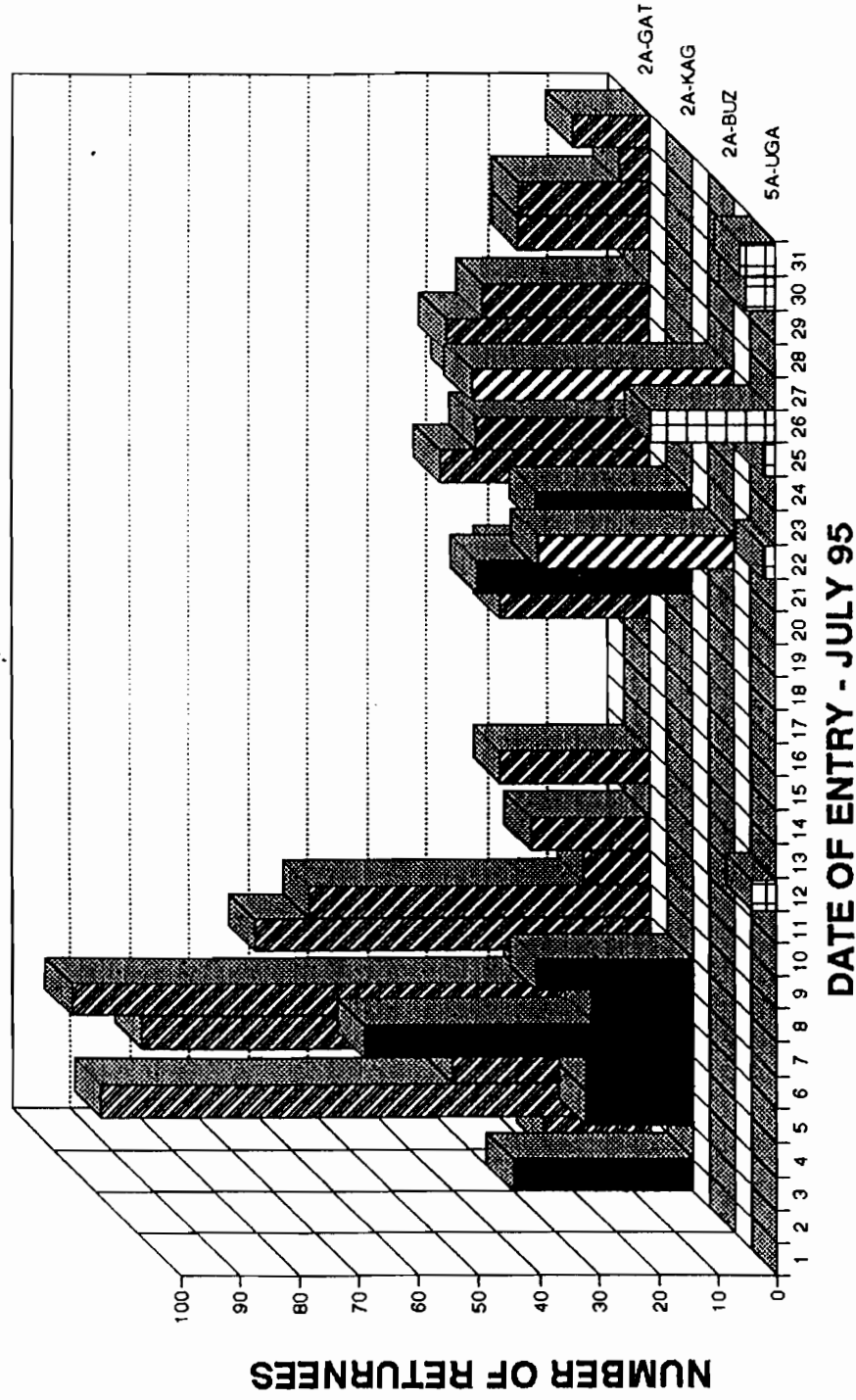
## 01 - 31 JULY 1995



Source: UNAMIR Military Observers, and the Humanitarian Assistance Cell

# RETURNEES -UGANDA

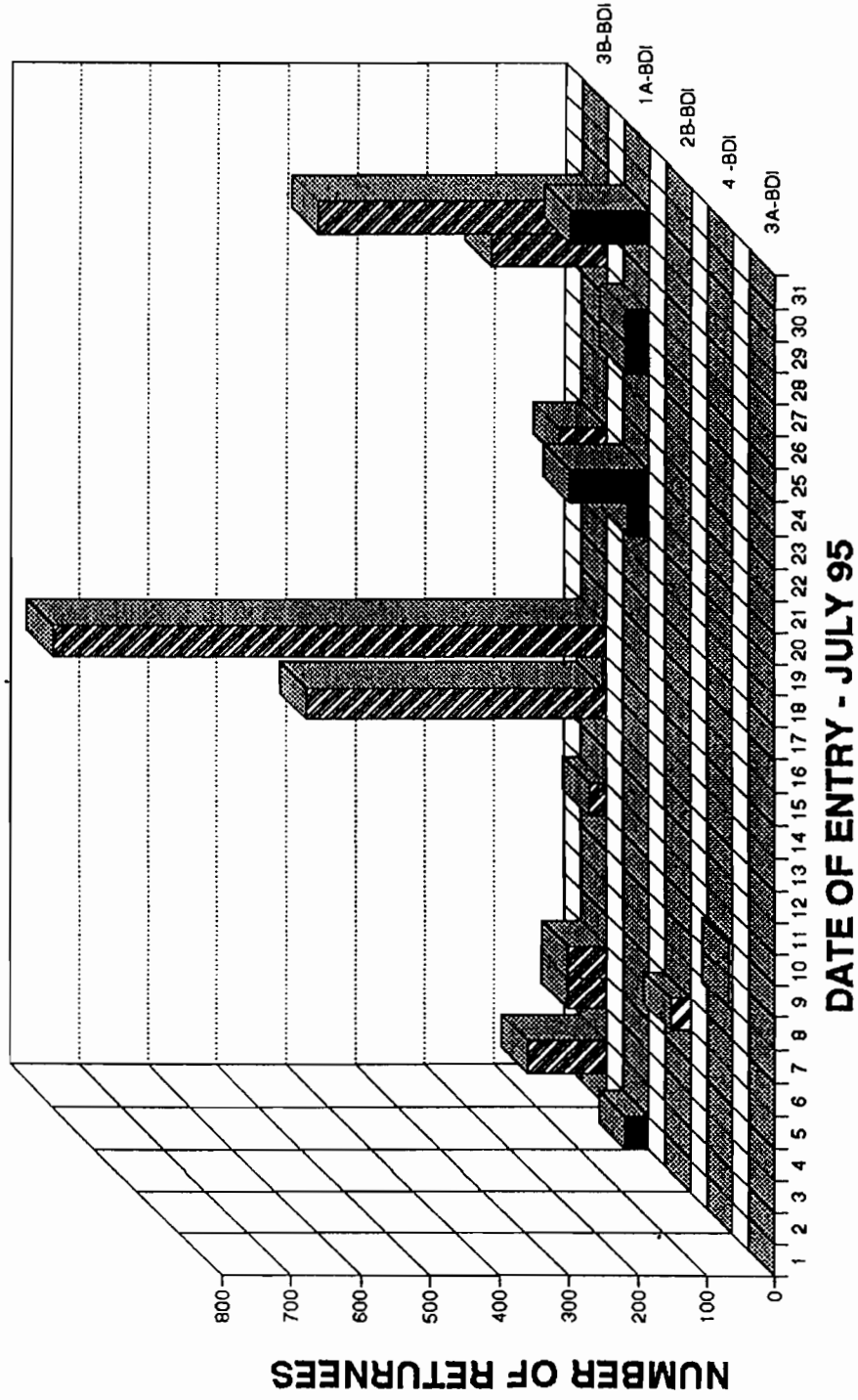
01 - 31 JULY 1995



Source: UNAMIR Military Observers, and the Humanitarian Assistance Cell

# RETURNEES -BURUNDI

01 - 31 JULY 1995



Source: UNAMIR Military Observers, and the Humanitarian Assistance Cell

**A MORE HUMANE WORLD?**

**The Evolution of International Responses to Situations**  
**Involving Massive Human Suffering**

**Study for the Commonwealth Secretariat for the  
Intergovernmental Group on the  
Emergence of a Global Humanitarian Order**

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**December 1994**

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## 1. INTRODUCTION

This is a descriptive study, with prescriptive implications. It explores the various ways in which the international community has responded to situations involving massive human suffering, especially since 1989. The key criterion defining these situations is not just loss of rights generally, but loss of life and vast population displacements. The most obvious and important such situations have all involved some element of civil war, consideration of which runs like a thread through this study.

The particular focus of this study is humanitarian action, taken in response to various situations of war and massive suffering. The term 'humanitarian action' is used here to refer to actions specifically aimed at the reduction of human suffering: the clearest examples of such action are provision of food, shelter and protection to victims of war and famine, and assistance to refugees. More controversially, humanitarian action is sometimes seen to encompass, or require, the use of outside armed force in situations of chaos, warlordism, or tyrannical government. The question of the legitimate boundaries of humanitarian action has been raised sharply by many events since 1989, and is a central issue in this study.

The study looks at the underlying ideas on which responses to such situations have been based. It seeks to identify trends, and to assess the direction of those trends. It considers international responses generally, including those under UN auspices, as well as taking into account the Commonwealth's experience and practice. It considers the question of preventive action as well as responses to actual disasters. It examines some of the criticisms which have been made of the international community's responses. It looks at some possible improvements in, and alternatives to, the types of humanitarian action which have developed.

On the basis of events since 1989, is there evidence of an emerging global humanitarian order or, to use the phrase of the title of this study, a more humane world? There is evidence favouring such propositions, but there are also grounds for doubt as to whether we yet have, even in embryo, a fundamentally new international order, or a new system of global governance. The conclusions of this study include some deductions from recent experience, and recommendations for the way forward.

In preparing this report I have drawn on some previous work, including that done for articles published in International Affairs, London, July 1993, and Survival, London, Autumn 1994; and for Adam Roberts and Benedict Kingsbury (eds.), United Nations, Divided World: The UN's Roles in International Relations, 2nd edition, Oxford University Press, 1993. Additionally, I have had the benefit of considerable assistance from the Commonwealth Secretariat; from individuals working in the UN and its various agencies in New York and Geneva, and also



in former Yugoslavia; from officials and diplomats working for many governments; and from many academic colleagues at Oxford and elsewhere. The faults of the present study, of which there will certainly be many in a subject as difficult as this, are all mine.

Adam Roberts, Oxford, December 1994

## 2. COMMONWEALTH BACKGROUND

Unlike the United Nations, the Commonwealth does not have specific organizational frameworks for addressing situations involving massive human suffering. However, it does have a tradition of addressing issues relating to the human dimensions of international relations generally. The Declaration of Commonwealth Principles, approved at the Commonwealth Heads of Government Meeting (CHOGM) in Singapore in January 1971, identified many of these dimensions: it placed great emphasis on the multi-national character and approach of the Commonwealth in general and its members.

The 1991 Harare Declaration developed this concern with a wide range of proposals, including its emphasis on democracy, just and honest government, and fundamental human rights. The range of issues preoccupying Commonwealth member states was subtly changing. In the wake of the end of the Cold War, with the South African issue ceasing to be so central in Commonwealth deliberations, with extensive discussion of the nature of the new international order, and with issues of humanitarian action already playing a major role in international diplomacy, many members of the Commonwealth believed that it was necessary to put emphasis on new priorities and modes of action, appropriate to a new era.

The 1993 Commonwealth Heads of Government meeting at Limassol had as a Special Theme of the Meeting: 'The Emergence of a Global Humanitarian Order'. This order proved difficult to flesh out, the result being the undeniably modest paragraph 6 of the communiqué:

Having discussed the Special Theme of the Meeting: 'The Emergence of a Global Humanitarian Order', and acknowledging its importance, Heads of Government requested the Commonwealth Secretary-General to constitute, in consultation with Commonwealth governments, a high-level intergovernmental group to examine specific ways in which the Commonwealth could make the fullest possible contribution to the work of the international community on this theme. The report of the group would be for consideration by governments.

The 'Inter-Governmental Group on the Emergence of a Global Humanitarian Order', set up after Limassol, under the chairmanship of Bryce Harland, is to report to the next CHOGM (at Auckland, New Zealand, in November 1995) on various questions relating to the emergence of a global humanitarian order, and will encompass challenges arising from socio-economic as well as political problems.

Clearly a more direct Commonwealth involvement than hitherto in humanitarian issues would not necessarily be inconsistent with past positions; and could indeed be viewed as a natural development of past concerns. However, such an involvement raises many difficult issues, discussed in this study. Above all, there is no escaping the fact that there are hard lessons to be drawn from recent experience of humanitarian action. Moreover, there are, and quite legitimately so, many different intellectual and

national perspectives on the proper place of humanitarian action in international politics. Any Commonwealth approach will have to take account of these lessons and perspectives.

### **3. THE CHANGING CONTEXT OF HUMANITARIAN ACTION**

There is no doubt about the fact that humanitarian issues have been the subject of increased attention in international relations since the end of the Cold War. One obvious measure of this increased attention is the unprecedented attention given to a wide range of humanitarian issues in UN Security Council resolutions. Another is the increase in the activities and budgets of the relevant international agencies: the budget of the UN High Commissioner for Refugees more than doubled between 1990 (\$500m.) and 1991 (\$1,200m.), and has increased still further since (the 1994 figure being \$1,300m.); in an only slightly less dramatic increase, the ICRC budget increased from under SFR (Swiss francs) 400 million in 1987 to almost SFR 800 million in 1994.

#### **a. Why humanitarian action has become a central issue**

There are many reasons why humanitarian issues have received such extensive international attention in the post-Cold War world. They include:

- \* The conclusion of partial or general peace agreements in respect of particular conflicts, requiring large-scale humanitarian action (as in Mozambique) to repatriate refugees and rebuild social and economic institutions.
- \* The emergence of new and severe conflicts in the former Yugoslavia and former Soviet Union, as these large communist-cum-federal states collapsed.
- \* The eruption of civil war in several other states, especially in Africa.
- \* Extensive global reporting of such crises, including on television, leading to strong public pressure on outside governments to act.
- \* New possibilities for united action by states under the auspices of the UN Security Council, once the East-West divide and consequential uses of the veto were seen as having been overcome.
- \* A hope that humanitarian action could overcome political divides, could constitute a basis for a united and effective response to a wide range of crises, and could even point the way to a new order which transcends some of the limits of the system of sovereign states.

Despite the problems and disappointments which have been encountered, many of the underlying factors which led to this concentration on humanitarian action are unlikely to disappear.

b. **Different types of 'situations involving massive human suffering'**

Several totally different types of problem could be considered under the common rubric of 'situations involving massive human suffering'. Causes of such situations involving loss of life on a large scale may include:

- \* Civil war, and general collapse of the state;
- \* Dictatorial government;
- \* Economic backwardness and massive unemployment; and
- \* Natural disasters.

Wars, especially civil wars, and the collapse of existing state structures, have been central features of many post-Cold War crises involving massive suffering. This has been so in recent and ongoing crises in former Yugoslavia, the former Soviet Union, Afghanistan, Somalia, southern Sudan, Rwanda, and elsewhere. In such situations there is often some degree of willingness to accept outside assistance, or some vulnerability to outside pressure to do so. However, civil wars are notoriously bitter and difficult to control, and present some especially difficult problems for humanitarian action.

Crises caused by dictatorial governments acting so as to cause massive suffering within their own territory pose special problems for humanitarian action. When the problem is essentially one of over-powerful government, humanitarian agencies may find it difficult to act within the country concerned; and the UN Security Council may lack a clear Charter basis for taking action. The issue is a serious and difficult one, as the responses and non-responses of the international community to the crisis in Cambodia during the years of the Khmer Rouge regime (1975-79) showed. The question has not been at the forefront of debate in the post-Cold War period, but will not disappear. It is discussed further below in the context of the debate over 'humanitarian intervention'.

Problems of economic backwardness and massive unemployment can cause vast suffering. Poor nutrition, impure water supplies, and inadequate health facilities, can all cause massive human suffering and loss of life. It is possible that more lives might be saved by addressing these enduring problems in a wide range of countries, than by concentrating so many resources on a limited number of war-torn countries. Yet in reality the problems overlap: there is a link, though not an automatic one, between economic backwardness on the one hand and the breakdown of states on the other. In any case, governments and international bodies do not have the option of choosing between addressing the suffering caused by war or the suffering caused by economic backwardness: both are bound to be the subject of concern and, in some degree at least, action.

Natural disasters such as earthquakes, floods and famines are not excluded from this study, but are not its main focus. The practice of states co-operating in the provision of assistance

to areas which have experienced natural disasters is of long standing, and has raised relatively few problems. The practice, like some other forms of humanitarian action, constitutes evidence that states can sometimes take action of a disinterested character, and do so effectively.

Other types of situation may also cause massive human suffering and loss of life. Various man-made disasters, evoked by such names as Bhopal and Chernobyl, may lead to a need for international technical and humanitarian assistance.

These various types of cause tend to require very different responses. They can all be lumped together under the single label of 'humanitarian crises', but the label does not suggest a prescription. Some crises may be appropriately addressed by a primarily humanitarian response, whereas others require a more complex and multi-faceted approach.

#### **c. Changes in the practice of the UN Security Council**

The changes in the practice of the UN Security Council have had a huge impact on the whole question of humanitarian action. A small but significant measure of the increased capacity for agreement on the Security Council is the number of resolutions passed. From 1945 to 1988 the average number of resolutions passed by the Security Council each year had been about fifteen. Subsequent figures are:

1990: 37  
1991: 42  
1992: 74  
1993: 93

Many of these resolutions dealt with situations involving massive human suffering. In addition, many specifically drew attention to humanitarian issues of one kind or another; and many actions of peacekeeping and other forces operating under Security Council resolutions have been directly concerned with humanitarian action.

One reason for the Security Council's unprecedented attention to humanitarian issues may be the need to get maximum support for any given operation from among its fifteen members. Especially when dealing with complex conflicts and civil wars, it may be genuinely difficult to get agreement on a definite political line, such as supporting one side, or imposing a settlement by force: but it may be relatively easier to get international agreement on more modest and apparently less risky action, aimed not at the use of force but rather at the alleviation of suffering combined with efforts to induce the parties to reach a settlement. In the end, as explored further below, humanitarian policies frequently come under criticism, from several distinct quarters. Yet it is not surprising that in the framework of a large multilateral institution such as the UN there is a tendency to respond to crises by operating in humanitarian mode.

#### 4. THE QUESTION OF HUMANITARIAN INTERVENTION

The question of whether there is, or is not, a right of humanitarian intervention is not necessarily the central issue in considering possibilities of international humanitarian action. However, it has been a central question in recent practice and in international diplomacy. It hangs heavily over all contemporary debates over the role of humanitarian action in international relations. The debate in the Commonwealth has been no exception.

##### a. Humanitarian intervention vs. the principle of non-intervention

'Humanitarian intervention' may be defined as military intervention in a state, without the approval of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants. The concept has a long and controversial history. Recent practice has reopened old controversies, and added new elements. The idea of humanitarian intervention does undeniably involve some departure, in exceptional circumstances, from the principle of non-intervention.

The non-intervention rule--the prohibition of military incursions into states without the consent of the government--is often criticized as a principle based more on order than on justice, but it does have a serious moral basis. Non-intervention provides a clear rule for limiting the uses of armed force, and reducing the risk of war between the armies of different states. It involves respect for different societies, with their different religions, economic systems, and political arrangements. It acts as a brake on the territorial and imperial ambitions of states. It has not served badly as an ordering principle of international relations in the post-1945 era.

Because non-intervention remains so important a principle, it is not surprising that the idea of 'humanitarian intervention' has never been formally accepted in any general legal instrument; but the continued life of humanitarian intervention in international scholarly debate (and, to a lesser extent, in practice) is evidence of the seriousness and perennial character of the issues with which it deals.

The actual observance of the non-intervention rule has been very imperfect. States have violated it on many occasions and for many reasons, including the protection of nationals, the prevention of changes to the balance of power, and counter-intervention in response to another state which is deemed to have intervened first. Yet the rule has not collapsed: evidence, perhaps, that a robust rule can outlive its occasional violation.

The idea of humanitarian intervention is not necessarily the incorrigible enemy of the general rule of non-intervention. Even the stoutest defender of non-intervention must concede one of its more glaring weaknesses. Can that rule really apply when the situation in a country is so serious that the moral conscience of mankind is indeed affronted? What is the ethical or logical foundation of the rule that makes it so rigid, so uncomprehending of the evidence of misery, that it cannot allow for exceptions?

One might even say that if a coherent philosophy and practice of humanitarian intervention could be developed, it could have the potential to save the non-intervention rule from its own logical absurdities and occasional inhumanities.

There can be no disputing the sheer force of circumstance which brought about the new practice, and doctrine, of humanitarian intervention. The age-old problem of whether forcible military intervention in another state to protect the lives of its inhabitants can ever be justified became politically sensitive in recent years when harrowing situations, especially when reported on TV, led to calls for action; and when the UN Security Council, no longer hamstrung by East-West disagreement, was able at least to reach authoritative decisions, giving a degree of legitimacy to interventions which might otherwise have been hotly contested.

Any possibilities of developing a coherent notion of humanitarian intervention involve, crucially, questions about the authorization of such intervention. The possibility that the society of states, acting through regional or global bodies, might in some way authorize particular acts of intervention significantly weakens the traditional objection to humanitarian intervention. The issue of authorization looms especially large in view of the fact that main foundations of the non-intervention rule have been concerns about states acting unilaterally, pursuing their own interests, dominating other societies, and getting into clashes and wars with each other. If an intervention is authorized by an international body, and has specific stated purposes, all these concerns begin to dissolve.

In the past half century there has been a particularly strong tendency for a wide range of military interventions to be conducted on a multilateral basis, or at least with multilateral fig-leaves: hence the frequent use of regional organizations to sanctify such interventions as those of the Soviet Union in Czechoslovakia, of Syria in Lebanon, or of the United States in Grenada. Now that the UN Security Council is more capable than before of reaching decisions on major matters, it is emerging as the main instrument for sanctifying interventions, including humanitarian ones, and for enunciating their purposes. In this matter the United Nations has obvious advantages over bodies with more limited membership. If intervention is permitted only if it has UN Security Council authorization, the risks of competitive chaos and insecurity, and of pursuit of unilateral advantage, are greatly reduced.

#### **b. Security Council decisions since 1991**

The role of the United Nations, especially the Security Council, is the principal new element in recent acts of intervention. Its decisions giving legitimacy to uses of force have been of great importance. Decisions in respect of northern Iraq, former Yugoslavia, Somalia, Rwanda and Haiti have all put great emphasis on humanitarian issues as justifications for the use of outside forces.

However, these have not all been pure cases of humanitarian intervention. One factor distinguishing them from the textbook



case has concerned the question of consent. In several of the cases in which the UN Security Council has used a humanitarian justification for a military involvement, the whole question of the consent of the host state has proved to be far more subtle in fact than ever it was in legal theory.

On northern Iraq, the UN required in the Delphic terms of Resolution 688 of 5 April 1991, that 'Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq', which was less than a formal authorization of intervention, but was nevertheless of considerable help to the Americans and their coalition partners. The operation has to be seen partly in the special context of post-war actions by victors in the territory of defeated adversaries. Further, there were elements of Iraqi consent in the subsequent presence of UN guards in northern Iraq.

In former Yugoslavia, although UNPROFOR's initial deployment in February 1992 was with the consent of the parties to the conflict, successive UN Security Council resolutions were so phrased as to suggest that the UN might actually require the parties involved to accept the continued presence of peacekeeping forces with a humanitarian role whether they wanted them or not; and there were also suggestions in these resolutions that if UNPROFOR and its humanitarian activities were obstructed, further measures not based on the consent of the parties would be taken to deliver humanitarian assistance. In practice, the experience of UNPROFOR in the midst of an ongoing war in Yugoslavia has proved that there are extremely difficult problems involved in any action not based on consent.

On Somalia, the US-led invasion of 9 December 1992 had the full blessing of Resolution 794--the first UN resolution to authorize explicitly a massive military intervention by member states within a country without an invitation from the government. However, there was no Somali government to give or refuse consent, so the UN-authorized intervention by UNITAF in December 1992, and its continuation by UNOSOM II in May 1993, was hardly a classic case of humanitarian intervention. Further, as discussed below, its actual conduct raised questions about the label 'humanitarian intervention'.

On Rwanda, the initial deployment of UNAMIR in November 1993 was by consent of both the government of Rwanda and the Rwandese Patriotic Front (RPF). However, subsequent revisions of UNAMIR's mandate, in a series of Security Council resolutions from April 1994 onwards, gave it additional roles. These new roles were not based on the consent of the government. This was because it was precisely the government of Rwanda that was instigating or tolerating mass killings that the UN sought to prevent. Resolution 918 of 17 May 1994 expressed concern over 'a humanitarian crisis of enormous proportions' and decided on an expansion of UNAMIR's mandate:

- (a) To contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda, including through the establishment and maintenance, where feasible, of secure humanitarian areas;



- (b) To provide security and support for the distribution of relief supplies and humanitarian relief operations.

This mandate was repeated and reaffirmed in Resolution 925 of 8 June 1994, which referred to 'reports indicating that acts of genocide have occurred in Rwanda', and underscored that 'the internal displacement of some 1.5 million Rwandans facing starvation and disease and the massive exodus of refugees to neighbouring countries constitute a humanitarian crisis of enormous proportions'. Great difficulties arose in obtaining forces to go to Rwanda to carry out the mandate. In a further decision on Rwanda, Resolution 929 of 22 June 1994, the Security Council accepted an offer from France and other member states to establish a temporary operation there under French command and control. The Council stated that in doing so it was acting under Chapter VII of the Charter, and it authorized France to use 'all necessary means to achieve the humanitarian objectives' set out in Resolution 925 (and also in Resolution 918 as quoted above). This was the prelude to the French-led 'Operation Turquoise' in western Rwanda in summer 1994.

There was much controversy about the French action in Rwanda, as indeed there was about the entire UN role in response to the Rwanda crisis. Most of the controversy, however, was based on the view that there should have been earlier, larger, and more decisive humanitarian intervention. There was especially heavy criticism of Security Council Resolution 912 of 21 April 1994, in which, at the height of the crisis within Rwanda, the Council had actually decided to reduce the size of UNAMIR from 1,700 to 270 personnel--a decision that was never fully implemented.

The crisis in Haiti following the September 1991 coup d'etat which had toppled President Aristide led to numerous resolutions of the UN Security Council. These resolutions imposed economic sanctions and expressed repeated concern about the humanitarian situation. The General Assembly, too, expressed its concern, for example in its resolution 47/20 of 22 March 1993, which urged members 'to increase their humanitarian assistance to the Haitian people'. Abortive attempts to secure a negotiated transfer of power led to the passing of Security Council resolution 940 of 31 July 1994, which authorized the use of 'all necessary means to facilitate the departure from Haiti of the military leadership ... and to establish and maintain a secure and stable environment'. This resolution is remarkable for its unequivocal call for action to topple an existing regime. It did so partly on the basis of humanitarian considerations. Following this, a US-led force intervened in Haiti in September 1994, but only after a last-minute agreement providing a basis for a US military role in Haiti, signed in Port-au-Prince by Jimmy Carter and Haiti's military-installed President, Emile Jonassaint. Thus even in this case where the UN Security Council was operating in enforcement mode, there was some hesitation in using force: some element of consent of the government in place was sought and obtained.

#### c. Questions about consistency of UN decisions

None of the five cases outlined above is a pure textbook case of humanitarian intervention. Yet all contain some elements

of humanitarian intervention. The situation in Rwanda perhaps corresponded most closely to that picture of an utterly oppressive regime slaughtering its own people which has been at the heart of much past theorizing about humanitarian intervention: yet the actual intervention that followed was in many respects more hesitant and equivocal than in some of the other cases.

These cases of uses of armed force with a humanitarian rationale raise questions about the consistency and seriousness of recent UN practice.

The first question has to do with the terms of the UN Charter. It is sometimes suggested that the Security Council is a structurally flawed body when it comes to considering the matter of humanitarian intervention, because under the Charter and its own past practices it cannot authorize a military action purely on the grounds of the existence of grave human rights violations. In order to act under Chapter VII of the Charter, as it did in each of these cases, the Security Council's action must be premised upon a legal determination of the existence of a threat to international peace and security. The contrast between the legal and the real grounds of action is clearest in resolution 794 of 3 December 1992 on Somalia. It mentions 'a threat to international peace and security' once, almost ritualistically, as if to get over a necessary legal hurdle; but it mentions the word 'humanitarian' no less than eighteen times--a dismal record for a UN Security Council resolution, but an indication of the reasoning and intentions behind the authorization of intervention. In general, it would be hard to argue that the need to prove a threat to international peace and security has seriously distorted UN practice in the matter of humanitarian intervention. Once a consensus has emerged that action is warranted (whether on humanitarian or other grounds), this requirement has not proved a major obstacle.

A second ground for doubt about recent UN practice has to do with selectivity and so-called 'double standards'. Undoubtedly, the conscience of mankind was shocked by the plight of Iraqi Kurds, the vicious fighting and sieges in ex-Yugoslavia, the starvation in Somalia, and the genocide in Rwanda. But there have been other perhaps equally shocking situations in the past few decades. The fact that genocide in Cambodia, shootings in Beijing, ruthless dictatorship in Burma, or catastrophe in Sudan did not lead to humanitarian interventions suggests that some other factors are involved in decision-making. Humanitarian intervention seems for the most part to be confined to cases in which there has been extensive TV coverage, there is some particular interest in intervention, and in which there is not likely to be great power dissent or massive military opposition. In short, it may largely be confined to highly publicized situations of chaos and disintegration, Somalia and Yugoslavia being prime examples; or to interventions in small states not capable of offering serious military opposition, such as Haiti. It will not be an answer to the often more serious problem of the over-powerful and brutal state. True, the operation in northern Iraq in 1991 was an intervention in a state with an all-too-powerful government, but that was in the exceptional circumstance of a state recently defeated in war, and about which the victors

felt an unusually high degree of responsibility, not least because of the US encouragement to the people of Iraq to engage in an ill-starred and brutally suppressed rebellion.

Overall, the practice of the Security Council does suggest a high degree of selectivity about the situations in which humanitarian intervention might be authorized: and the selectivity involves many factors other than the plight of the people whom an intervention might be intended to assist. This is the exact equivalent of the Security Council's familiar selectivity in certain other spheres, such as in the question of which invaded states it assists with forceful measures. The same defence can be made of Security Council practice in both cases: that prudence is not a bad guide to action, that some degree of selectivity is inevitable, and that it is better to uphold basic principles selectively than not at all.

A third problem with recent UN practice involving elements of humanitarian intervention is that it is extremely hard to divine anything like a doctrine from so variegated a set of cases and approaches. Security Council resolutions have moved the matter forward inch by inch, in a thoroughly pragmatic way. There is plenty reference to exceptional circumstances, but no general defence of humanitarian intervention. When the Security Council passed resolution 794 of 3 December 1992 authorizing Operation Restore Hope in Somalia, the following wording was put at the beginning of the preamble at the express wish of African states: 'Recognizing the unique character of the present situation in Somalia and mindful of its deteriorating, complex and extraordinary nature, requiring an immediate and exceptional response'. In other words, they did not want the invasion of Somalia to be viewed as a precedent for invasions of other sovereign states.

#### **d. Purposes and results of interventions with a humanitarian rationale**

Perhaps the greatest difficulties arising from contemporary practice of interventions with a humanitarian rationale have to do with their uncertainty of purpose, and their questionable consequences.

What on earth does the word 'humanitarian' mean, and does it accurately describe anything beyond the original supposed motive of an action? How does such a motive translate into actual policies to transform a situation? Does it make sense to call an intervention in a country 'humanitarian' when the troops involved may have to fight and kill those who, for whatever reasons, seek to obstruct them? Or when the troops involved fail to provide what the inhabitants most desperately need--especially security?

In many of the recent cases involving some element of humanitarian intervention, the repeated emphasis on the word 'humanitarian' has been a natural corollary of the absence of a serious long-term policy in respect of the target country, except in the limited matters of saving lives and trying to get rival factions to reach a peace accord. Some of the emphasis on humanitarianism is vulnerable to the criticism that it reflects the natural desire to do something in face of disaster, and a

tendency to forget that in all these cases the disaster has been man-made, and requires changes in policies, in institutions, and possibly even in the structure of states and their boundaries.

The vagueness and incompleteness of aims in some recent cases is striking. In northern Iraq, there has been ambiguity about the extent to which Kurdish autonomy is or is not supported. In former Yugoslavia, the mandates of UNPROFOR have varied from place to place and from time to time, but have been widely viewed by the inhabitants as inadequate. In Somalia, the mandates of the forces intervening under UN auspices were never clear on the key matters of who was supposed to be in charge in Somalia, and what was supposed to be done about the weapons and warfare of the clans and warlords. In Rwanda, many critics have asserted that the UN should have had a more forceful policy, and should perhaps have sided with the RPF forces. In all these cases, there are understandable reasons for the vagueness of aims: more precision would have implied a willingness to impose a pre-determined outcome, and would be open to the accusation of dictatorial interference.

The outcomes of recent cases of humanitarian intervention have been mixed. In the first of the recent cases, Operation Provide Comfort in northern Iraq, the results have shown signs of enduring: yet even there, such modest security for the Kurds as has been achieved is under constant threat, with much nervousness about whether Saddam Hussein's government and armed forces can be kept indefinitely from wreaking vengeance in the region. A further worry about northern Iraq is that it provides some evidence in support of the proposition that intervention is a step onto a slippery slope, reducing the inhibitions against further interventions: from August 1991 onwards, in a purely unilateral move, Turkish forces launched attacks in northern Iraq against their foes in the Kurdish Workers Party (PKK).

In ex-Yugoslavia, the UN Protection Force (UNPROFOR) has fulfilled at least some humanitarian purposes: it has done solid work in getting food convoys in to Sarajevo, and in building up Muslim-Croat relations in Central Bosnia. However, it has failed conspicuously to actually protect the inhabitants, at least in Bosnia; and it has also failed to demilitarize the Serb-held areas of Croatia. To the modest extent that Yugoslavia can be considered a case of humanitarian intervention, it is one which cruelly exposes the limitations of the idea.

In Somalia, the follow-up to Operation Restore Hope of December 1992 was sadly reminiscent of colonial policing. The words of the UN military spokesman in Mogadishu on 10 September 1993, the day after yet another incident in which UN troops had killed a number of civilians, are an appropriate epitaph for a short-sighted optimism about humanitarian intervention: 'Everyone on the ground in that vicinity was a combatant, because they meant to do us harm.' The UNOSOM II peacekeeping operation is leaving the country having saved many who would otherwise have starved, but without having achieved a major change in the chaotic clan warfare which led to the UN's initial involvement in 1992.

In Rwanda, the interventions under UN auspices within the country were throughout limited in size, in duration, and in goals. This sad experience illustrates the reluctance of states to take decisive and enduring action in situations of great danger, and where the domestic interests of the intervening states are involved only to a limited degree.

The operation in Haiti had an unusually clear purpose: the restoration of a democratically elected government. Here intervention seems to have been successful, though any optimism must be tempered by awareness of the very limited long-term results of previous US interventions, and the difficulties that have been encountered in the past in trying to eradicate violence from Haitian politics.

In general, the results of international intervention in internal conflicts since 1991 have been mixed. As Lori Fisler Damrosch has written, on the basis of examining six cases: 'In the eyes of many, collective institutions have done little to restrain internal conflicts: rather, it is the institutions themselves that seem under restraint.'<sup>1</sup>

#### e. Problems of the idea of 'humanitarian intervention'

Recent practice involving elements of humanitarian intervention has resulted from real and urgent crises. It has also introduced innovatory features, of which the most significant is the emphasis on the UN Security Council as the authorizing body. While it has undoubtedly saved many lives, there have been serious problems and defects.

1. Increasingly the term 'humanitarian intervention' seems a misnomer. It is a form of justification, and one which deserves to be viewed sceptically. It carries the implication that a military intervention in another country can be humanitarian in four respects: in its original motives, in its stated purposes, in its methods of operation, and in its actual results. Recent practice confirms doubts as to whether it can really be humanitarian in any, let alone all, of these ways.
2. The claim that an intervention by one's own forces is 'humanitarian'--the provision of assistance to unfortunate peoples incapable of providing for themselves--appeals too easily to the ethnocentrism which lurks in all of us. An operation may be characterized by a sense of moral rectitude--of operating, on behalf of the UN, on a higher plane than the local forces. This mix of factors can degenerate into arrogance, anger, bathos and despair.

3. Any intervention is liable, sooner or later, to provoke local opposition. Even humanitarian assistance can provoke strong local resentment, especially if the very necessity for its presence cruelly exposes failings in the target society, or if the forces involved are substantially ignorant of, or arrogant towards, local forces and customs, with which they have no long-term relationship. Thus what begins as humanitarian intervention is at risk of ending in humiliating exit.
4. A multilateral intervention, authorized by the Security Council, is especially at risk in several respects. These derive partly from inevitable features of the way the UN does its collective business: compromise, inertia, and (sometimes) avoidance of difficult issues. There may be a lack of clear strategic direction in any operation, a lack of knowledge of the country and its languages, and a lack of any deep commitment or sense of responsibility on the part of troop-contributing states. In fractured societies there may be a need to take on governmental functions, but there is often a reluctance to do so.
5. In the current state of international society, there is absolutely no possibility of securing general agreement among states about the legitimacy of humanitarian intervention. The many interesting attempts to devise formal criteria for intervention are not likely to get formal approval.<sup>2</sup> Humanitarian intervention will, and perhaps should, remain in a legal penumbra: something which may occasionally be approved by the Security Council or by other bodies, may reluctantly be tolerated by states, but cannot be given a sort of generic advance legitimation--not only because it involves breaking a valued norm, but also because it would be impossible to spell out in advance the circumstances in which it might conceivably be justified.
6. Despite the frequency of recent cases in which there are strong elements of humanitarian intervention, the twin principles of sovereignty and non-intervention remain of fundamental importance in the international system. Only in very extreme cases, and with a wide range of procedural and substantive safeguards, can these twin principles be overridden. Even then there are bound to be doubts. The fear of a pattern of interventions getting out of hand is not unreasonable. In too many states there are living memories of external domination, and real fears that outsiders, in the name of humanitarianism, could find more or less



plausible grounds for intervention. To reopen the door to external interventions in any general way would be deeply unpopular in many states, often for very good reasons.

## 5. SPECIFIC FORMS AND PROBLEMS OF HUMANITARIAN ACTION

The apparent rise of humanitarian considerations as part of the conduct of international relations has by no means been limited to actions with some element of 'humanitarian intervention'. Many other forms of action, and kinds of humanitarian consideration, have been conspicuous parts of international diplomacy in the post-Cold War period. These include actions which, because they are non-military, or because they are conducted on the basis of full consent of host states and other parties, certainly do not constitute humanitarian intervention. Any claim that the world is moving towards a new humanitarian order must depend very largely on the significance of this broader body of humanitarian considerations and action--or else on very general claims about the growth of good government, democracy, and human rights, which are considered later in this study.

One of the problems of any attempt to construct a humanitarian order is that good things do not always go well together. Different actions taken for different humanitarian purposes can, and often do, conflict with each other. The discussion under each of the headings below illustrates this theme.

### a. Humanitarian problems involved in the use of international economic sanctions

In the post-Cold War world there has been a significant increase in the use of international economic sanctions under UN auspices. Sanctions, which are provided for in Article 41 of the UN Charter, are an important tool available to the Security Council in responding to conflicts and threats to international peace under Chapter VII of the Charter. They are often seen as having a special claim to favourable consideration, because they constitute a form of international pressure that falls short of war.

The UN's use of sanctions, fairly rare until 1990, has increased significantly since then, as the following survey indicates.<sup>3</sup> General economic sanctions were applied to Rhodesia (1966-79); Iraq following its invasion of Kuwait (1990- ); and Serbia and Montenegro (1992- ). An arms and air traffic embargo

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<sup>3</sup> See generally Margaret Doxey, International Sanctions in Contemporary Perspective, London, 1987; David Leyton-Brown (ed.), The Utility of Economic Sanctions, New York, 1987; David A. Baldwin, Economic Statecraft, Princeton, 1985; Barry E. Carter, International Economic Sanctions: Improving the Haphazard US Legal Regime, Cambridge, 1988; Gary Hufbauer et al., Economic Sanctions Reconsidered, Institute for International Economics, Washington DC, 1990; and Patrick Clawson, 'Sanctions as Punishment, Enforcement, and Prelude to Further Action', Ethics and International Affairs, New York, 7 (1993), pp. 17-27.

was imposed on Libya (1992- ). There were also embargoes on the supply of arms to South Africa (1977- ); former Yugoslavia (1991- ); Somalia (1992- ); Liberia (1992- ); and Rwanda (1994). Arms and petroleum sanctions were imposed on Haiti in June 1993 (expanded to general economic sanctions in May 1994), and on the Unita rebel movement in Angola in September 1993.<sup>4</sup>

While the humanitarian or other rationales for using sanctions as distinct from other forms of pressure are often very persuasive, the experience of many of these cases suggests certain limitations of sanctions. Frequently (as in the cases of Iraq in 1991 and Haiti in 1994) they are preludes to the use of more forceful measures involving the use of armed force. Further, sanctions pose difficult humanitarian problems. There can in some cases be serious questions about their compatibility with the human rights of the target state population. Ordinary citizens, especially the poor and the vulnerable, normally suffer adverse effects of sanctions more than the government and its armed forces. The instrumentalist calculation behind sanctions is sometimes that if there is enough domestic suffering the people will rise up against their government. To the extent that this is the calculation, sanctions are obviously in tension with humanitarian priorities.

In two of the major cases of general economic sanctions in the post-Cold War period--Iraq and Serbia/Montenegro--the UN Security Council has made particular efforts to address the question of permitting exceptions on humanitarian grounds: for example, where there was a demonstrated need for food or medicine for vulnerable sections of the population. The imperatives that led to provision for exceptions were obviously overwhelming; yet the experience of allowing exceptions has left questions in the minds of those involved in managing such policies. Any regime that is the target of sanctions can, by denying supplies to a particular section of the population, produce hardship cases; and if supplies are obtained by such means, their overall effect may be to reduce the inconvenience and suffering caused by the sanctions, and so weaken their already uncertain effects. In short, the strength of the peaceful weapon of sanctions may sometimes risk being eroded by humanitarian concerns.

**b. Use of UN peacekeeping forces for humanitarian purposes**

In the post-Cold War world, to an unprecedented extent, forces operating under a UN mandate have become involved in the performance of a wide range of humanitarian tasks. These have taken three main forms:

- \* Assuring the delivery of humanitarian relief supplies, the maintenance of essential services, and reconstruction of damaged buildings.

In December 1992 the Security Council condemned the failure of the Khmer Rouge to comply with the Paris Agreements on Cambodia and called on 'those concerned to ensure that measures are taken... to prevent the supply of petroleum products to the areas occupied by any Cambodian party not complying with the military provisions of those Agreements'. However this resolution did not refer to Chapter VII of the UN Charter.



- \* Facilitating contacts between adversaries over such matters as resettlement of refugees and visits to graves.
- \* Establishing certain designated areas--variously described as 'safe areas', 'protected areas', or 'secure humanitarian areas'--where there is intended to be a high degree of protection for the inhabitants from the threat or use of force.

Such tasks have been a key part of the UN's effort in several war situations, including in former Yugoslavia, Somalia and Rwanda. Peacekeeping forces have been deeply involved in such activities, sometimes in almost complete substitution for traditional peacekeeping activities such as manning cease-fire lines, since there may be no peace of this kind to keep. Other forces and agencies operating in association with the UN have also been involved in these various humanitarian tasks. For an international organization to attempt such action in the midst of ongoing wars is historically unprecedented. The tasks are by nature extremely difficult, and also controversial.

There have been some remarkable successes in using UN peacekeeping forces for humanitarian purposes in situations of war, civil war, and breakdown of government. Very many lives have been saved, and refugee flows limited, by some of these humanitarian actions. The sheer logistic achievement of getting so many flights into besieged Sarajevo, as well as numerous land convoys, bears comparison with the 1948 Berlin airlift. Many of the extreme cruelties of siege warfare have been mitigated. Even if such achievements are only temporary, they deserve respect.

The problems attendant upon such efforts by peacekeeping forces in situations of great violence are well publicized. They can be summarized under the following headings:

- \* Humanitarian action in the midst of an ongoing conflict requires consent of the parties on the ground. Convoys cannot move, aircraft cannot fly, and hospitals cannot work, if there is no such consent. Thus peacekeepers inevitably find themselves having to make compromises with one belligerent or another.
- \* A proportion of humanitarian aid inevitably ends up in the hands of belligerent forces, either because they commandeer it at gunpoint, or because it is almost impossible to devise a distribution system within a society that will not allow supplies to get through to its armed forces.
- \* A perception that peacekeepers are reasonably impartial is essential if their humanitarian work is to continue during an ongoing conflict. Yet it is extremely hard to maintain impartiality in circumstances where aid tends (as it frequently does) to favour one side more than the other; where specially designated protected areas are used by one party as a springboard for military attacks; or where humanitarian considerations point to the need to take military action to protect safe areas, and to punish those who violate such areas.

- \* There may be powerful policy reasons, based on the cause and nature of the conflict as a whole, pointing to the need for the UN to act in enforcement mode, or to press coercively for a particular outcome even if that is rejected by one belligerent. Such coercive action may well undermine perceptions of impartiality.
- \* Personnel carrying out humanitarian work in the midst of ongoing conflict usually have to be dispersed in many parts of a war zone. They are exceptionally vulnerable to reprisals and hostage-taking by belligerents. This vulnerability can inhibit powers from taking forceful action even when it seems to be required.
- \* It can be very difficult to get and maintain troops with the necessary training and discipline to carry out such tasks; and generally to mobilize political, diplomatic and financial support for major peacekeeping operations over a long period, especially where major powers do not see their own interests as directly affected.
- \* The heavy demands of running peacekeeping-cum-humanitarian missions in a large number of conflicts simultaneously has exposed certain limits in the UN's capacity to manage operations, and (even more dramatically) the political and resource limits within which the UN has to operate. Many states have been unwilling to provide all the forces, materiel and finance required for such operations. Consequently there have been great pressures for more problems to be handled on a regional basis, for example by regional organizations--a matter explored further in Chapter 8 of this study.

These problems have proved exceptionally serious in Somalia, Rwanda and Bosnia. There has been a tendency to apply lessons learned from one situation in the next one. Thus the widespread perception that US forces in Somalia ceased to be impartial, and used too much force, led many to rely on a more cautious and discriminate approach in Bosnia: yet that approach, too, had its weaknesses, leading to repeated demands for a more robust policy in relation to challenges from Serb forces.

Peacekeeping operations with humanitarian tasks are sometimes accused of actually prolonging the conflicts which they are intended to alleviate and damp down. Such accusations have been made with particular frequency in respect of former Yugoslavia, but have also cropped up elsewhere. There are several possible responses to such accusations: that it is impossible to know how long a war would have continued in the absence of such an effort; that even if it did last longer, many lives were still saved; that the presence of a peacekeeping force with a humanitarian mission reduced the risk of extreme atrocities; that it helped prevent the creeping internationalization of a war; or that it prepared the way for a peace settlement by demonstrating the readiness of the international community to assist and monitor such an outcome.

Within the UN, against a background of multiple and difficult commitments of peacekeeping forces, there has been a

tendency to try to establish criteria to consider before new tasks are undertaken. A Security Council Presidential Statement on Peacekeeping, issued on 3 May 1994, listed six factors which must be taken into account when the establishment of a new operation is under consideration. These were: the existence of a threat to international peace and security; whether regional bodies are ready to assist; the existence of a cease-fire; a clear political goal which can be reflected in the mandate; a precise mandate; and reasonable assurances on the safety of UN personnel.<sup>5</sup> What is striking about these six factors is their complete omission of humanitarian operations in the midst of continuing hostilities; and indeed the six factors suggest a natural desire to return to something more like normal peacekeeping.

Two days later, on 5 May 1994, the Clinton Administration's long-planned Presidential Decision Directive 25, on 'multilateral peace operations', was unveiled. This did suggest that one relevant consideration when the US was deciding whether to vote for a military operation under UN auspices would be whether there was an 'urgent humanitarian disaster coupled with violence'. There would also have to be consideration of 'the political, economic and humanitarian consequences of inaction by the international community'.<sup>6</sup>

Despite the grounds for doubt about peacekeeping operations with predominantly humanitarian missions, they have shown much promise, and achieved significant results. The pressures of the last few years which led to this development of peacekeeping are not likely to subside. This is one of many aspects of international peacekeeping on which there is a need to learn from hard experience, but not to give up the effort.

### c. Trusteeship and other administrative roles

A logical consequence of the international community's increased emphasis on humanitarian action might well seem to be the establishment of temporary trustee-type administrations in areas undergoing social and political breakdown. Such administrations might in some cases be established with the consent of local parties, or in other cases in a framework of coercive 'humanitarian intervention'.

In countries in which the UN has become involved in peacekeeping and humanitarian activities because of a general breakdown of government, the organization and its leading members have been deeply reluctant to take over responsibility for government. For the most part the UN roles in government have

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<sup>5</sup> Statement by the President of the Security Council, UN doc. S/PRST/1994/22 of 3 May 1994, p. 2, discussing the Secretary-General's report 'Improving the Capacity of the United Nations for Peace-keeping', UN doc. S/26450 of 14 March 1994.

<sup>6</sup> The Clinton Administration's Policy on Reforming Multilateral Peace Operations, US Department of State Publication 10161, Washington DC, May 1994, 15 pp. This is virtually the text of PDD 25, less some appendices. The two factors cited are both on p. 4.

been confined to administrative assistance, civil affairs programmes, training, helping to hold or monitor elections, and generally giving advice. In some countries where government scarcely exists, or is itself part of the problem that needs to be addressed, such roles may be inadequate. The absence of a direct administrative role may sometimes have the effect of restricting the options available to UN forces to primarily military ones. The question of a more direct if hopefully temporary administration has to be addressed.

A major difficulty is that the historical record of various forms of mandate, trusteeship, and international administration has been mixed: Iraq and Rwanda, both of which were under trusteeship for substantial periods in the first half of this century, serve as reminders that trusteeship is no simple cure-all. However, proposals for such arrangements have continued to appear in international diplomacy, and the concept certainly merits contemporary reconsideration.<sup>7</sup>

There has been little sign of willingness on the part of the UN or its leading members to accept some kind of trusteeship role as one possible consequence of taking on responsibilities in areas where order has broken down. Although the UN Trusteeship Council is in process of completing its last remaining task, with the ending of the special status of Palau, there is not much sign of the emergence of a new formal system of trusteeship. We may in some respects be in an imperial situation today, but who are the imperialists? Except in cases of regional hegemony, old-fashioned forms of the direct exercise of dominance are out of fashion. No country is rushing to take up the White Man's Burden. In some circumstances there may be good reasons to establish a temporary externally-based administrative system, especially when such a proposal has the active support of all parties to a dispute. The probability is that, if this is done at all, it will be done indirectly, by the accretion of functions to various UN or other agencies and forces in a particular country: not by the proclamation of a new general system of trusteeship.

#### **d. Difficulties of implementing international humanitarian law**

One branch of humanitarian consideration that has come into sharp focus in recent conflicts is international humanitarian law. This body of law, also known as the laws of war, is intended to guide the conduct of belligerents and occupying powers, and to ensure particularly that certain basic rules are observed, including proper treatment of prisoners, respect for inhabitants of occupied territories, and non-use of prohibited means and methods of warfare.

In the past ten years, the United Nations has been more involved than ever before in matters concerning the implementation of international humanitarian law. Evidence of

See Gerald B. Helman and Steven R. Ratner, 'Saving Failed States', Foreign Policy, no. 89, Winter 1992-93, pp. 3-20; and Peter Lyon, 'The Rise and Fall and Possible Revival of International Trusteeship', Journal of Commonwealth and Comparative Politics, no. 31, March 1993, pp. 96-110.

this growing UN role includes:

- \* In January 1985, acting on his own behalf, the UN Secretary-General dispatched a mission to Iran and Iraq to investigate conditions under which POWs were being held.
- \* On 21 March 1986 a UN Security Council statement for the first time criticized Iraq by name over the use of gas.<sup>8</sup> On 26 August 1988 the Security Council unanimously adopted a resolution condemning 'the use of chemical weapons in the conflict between Iran and Iraq.'<sup>9</sup>
- \* From August 1990 onwards, several UN Security Council resolutions criticized Iraqi violations on international humanitarian law, including seizure of hostages, in connection with Iraq's occupation of Kuwait.
- \* In respect of the war in former Yugoslavia, Resolution 764 of 13 July 1992 reaffirmed that all parties to the conflict are bound to comply with their obligations under international humanitarian law, and that persons who commit or order the commission of grave breaches are individually responsible.

Resolution 771 of 13 August 1992 called on states to collate substantiated information on violations of humanitarian law, and also said that if the parties failed to comply, then the Council would take 'further measures'.

Resolution 780 of 6 October 1992 asked the Secretary-General to establish an impartial Commission of Experts, which was done that same month.

Resolution 808 of 22 February 1993 decided to establish an international tribunal regarding violations of international humanitarian law in former Yugoslavia since 1991.

Resolution 827 of 25 May 1993 approved the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, which was subsequently established in The Hague.

- \* On Somalia, Resolution 794 of 3 December 1992 made several references to international humanitarian law, deploring widespread violations, and stating that it 'strongly condemns all violations of international humanitarian law occurring in Somalia, including in particular the deliberate impeding of the delivery of food and medical supplies essential for the survival of the civilian

population, and affirms that those who commit or order the commission of such acts will be held individually responsible in respect of such acts ...' This was the resolution that authorized the US-led Unified Task Force (UNITAF) to intervene in Somalia: the citing of violations of international humanitarian law as part of the justification for intervention was unusual.

- \* Over Rwanda, Security Council Resolution 918 of 17 May 1994 requested the Secretary-General 'to present a report as soon as possible on the investigation of serious violations of international humanitarian law committed in Rwanda during the conflict.'

Apart from the Security Council, other international bodies have been increasingly preoccupied with issues relating to the implementation, or failure to implement, international humanitarian law. This was an important aspect of two cases taken to the International Court of Justice. The first was Nicaragua v. USA, on which judgment was given on 27 June 1986: this case was centrally about the legitimacy of planting mines in Nicaraguan waters, but also involved a number of other issues of international humanitarian law. The second was the case brought by Bosnia and Herzegovina against the Federal Republic of Yugoslavia, Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide.

One effort to call for more effective implementation of international humanitarian law was the International Conference on the Protection of War Victims, held in Geneva from 30 August to 1 September 1993. Representatives of 160 states attended. Like the 1989 Paris conference on Chemical Weapons, this tried to restore the sanctity of battered norms. Virtually all the recommendations in the declaration agreed at the conference were on the subject of increasing the number of formal adherents to the existing rules of international humanitarian law, and improving the dissemination and practical implementation of those rules.

Thus since the mid-1980s there has been an exceptional amount of high-level activity aimed at improving the implementation of the laws of war (or international humanitarian law). In particular, the UN Security Council has acquired a role in the implementation of the laws of war which was foreseen neither in the conventions themselves nor, it appears, the Council's own deliberations. This role has proved extremely problematical. It has involved the UN in upholding standards in circumstances where it cannot ensure their application; or where its involvement could be counter-productive; or where forces operating under the Security Council may themselves, as in Somalia, be the subject of accusations of violations.

Several conflicts, especially in former Yugoslavia and Rwanda, have forced UN peacekeeping forces to confront the issue of how to respond to massive violations of the most basic humanitarian rules by belligerents. Inasmuch as a clear answer has emerged, it appears to be that information on violations may be recorded and passed on, at least by some national contingents through their own national authorities. However, UN peacekeepers



have not yet any formal mandate to actually arrest suspected war criminals and hold them for possible trial, nor have they actually done so. Clearly there would be some built-in problems for peacekeepers if they were expected to negotiate with belligerents on a wide range of matters (such as allowing the transit of relief convoys, and helping arrange a peace settlement), while at the same time they were asked to arrest the same belligerents on war crimes charges. The establishment under UN auspices of the International Criminal Tribunal for the former Yugoslavia in The Hague in 1993-4 has not yet changed this pattern of limited involvement of peacekeepers in seeing to the implementation of international humanitarian law.

The question of punishment of war crimes exposes the continuing tension between the power of states on the one hand, and ideas of an over-arching international order on the other. For most of the time the laws of war, like other parts of international law, must be implemented through national mechanisms of various kinds: national laws, manuals of military law, government-established commissions of inquiry, and courts and courts-martial. The weaknesses of relying on national implementation are notorious; and the record of non-state entities in applying the laws of war is even more problematical. Yet we are not yet at a point where implementation on a supra-national level is proven.

The demand for effective action to implement international humanitarian law, or the laws of war, is likely to remain very strong, and to be very difficult to translate into effective policies. The issue of land mines, which in many countries are killing and maiming thousands even after wars have ended, is one on which the public outcry against inhuman means of carrying on warfare will not go away.

**e. Proposals for special legal protection for UN peacekeeping forces and for humanitarian workers**

Negotiations on a draft convention on the safety of peacekeeping personnel are in an advanced stage at the United Nations in New York. The question has also arisen as to whether such protection should be extended to humanitarian workers more generally.

The problem being addressed is serious. UN peacekeeping troops, and also humanitarian workers, have been in obvious danger in many recent conflicts, and the number of casualties has been higher than in earlier operations. When UN peacekeeping forces are involved in hostilities, are they to be regarded (at least for the purposes of the operation of the laws of armed conflict) simply as belligerents, on an equal footing with other parties? Or are they in some way in a superior position?<sup>10</sup> In recent years there has been a revival of the idea that UN forces

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For earlier discussions, see e.g. the 1971 Zagreb Resolution of the Institute of International Law on 'Conditions of Application of Humanitarian Rules of Armed Conflict to Hostilities in which United Nations Forces May Be Engaged', reprinted in Adam Roberts and Richard Guelff (eds.), Documents on the Laws of War, 2nd edn. (Oxford: Oxford University Press, 1982), pp. 271-5.

are entitled to receive assistance and cooperation from local parties, at least when carrying out such tasks as delivery of humanitarian aid. The draft international convention currently being negotiated under UN auspices would provide a special status for individuals serving in peacekeeping and peace enforcement operations under a UN mandate.

It is natural to want to give UN forces a privileged status as against other parties. Indeed, many Security Council resolutions have already sought to secure respect for both peacekeeping personnel and humanitarian workers. A typical example is Resolution 925 of 8 June 1994, on Rwanda, which

Demands that all parties in Rwanda strictly respect the persons and premises of the United Nations and other organizations serving in Rwanda, and refrain from any acts of intimidation or violence against personnel engaged in humanitarian and peace-keeping work.

There are potential dangers in taking the desire to protect peacekeepers and humanitarian workers to the logical conclusion of a special legal status. Such an approach raises the question, all too pertinent after events in Mogadishu in 1993, of whether all those who oppose or threaten UN forces are in some way 'outlaws'. Special protection, if not implemented with considerable caution and skill, could lead to a new kind of colonial mentality. It could also reduce the already none-too-strong incentives for some belligerents to observe the rules of war, since the idea that the rules are the same for all those involved in a conflict has been at the heart of the modern laws of war.

#### f. **Proposals for a UN 'Humanitarian Security Police'**

The idea that humanitarian workers, whether working for UN or for other agencies, should in certain circumstances receive armed protection from specially constituted forces has been proposed quite often in the post-Cold War era. The situation of such workers in Somalia before the intervention by UNITAF in December 1992 illustrates the problems. The demand for protection has arisen from a series of frustrating and tragic experiences. It has had high-level support. For example, UN Under Secretary-General Jan Eliasson said in February 1993:

Additional measures for respect of humanitarian aid and for protection of relief personnel are now necessary. The blue ensign of the United Nations and the symbols of the International Red Cross and Red Crescent, and of other relief agencies, no longer provide sufficient protection.<sup>11</sup>

Citing such concerns, Childers and Urquhart have suggested the possibility of setting up 'a separate and distinctive United



Nations Humanitarian Security Police'.<sup>12</sup> Humanitarian personnel, they argue, may need protection before there is a UN military intervention; and may also need to keep some visible distance from UN military forces. This and related proposals, for example for 'white helmets' to protect international humanitarian workers, have not received a vast amount of support. Three considerations against such a force are: that it might complicate yet further the already Byzantine complexity of UN force structures in the field; that it could cause resentment in many host countries; and that many humanitarian workers and organizations, both inside and outside the UN system, do not want this kind of protection.

**g. Conflicts between humanitarianism and human rights**

One worrying feature of UN operations in the post-Cold War era is the emergence of a clash between peacekeeping and humanitarianism on the one hand, and human rights on the other. Non-governmental organizations concerned with human rights have made trenchant criticisms of the even-handedness, tentativeness, and ineffectual character of many UN peacekeeping and humanitarian operations.<sup>13</sup>

Non-governmental bodies, especially those concerned with human rights, start from strongly held principles about fundamental and inalienable rights of individuals. Thus two leading non-governmental aid agencies have stated:

The principle of sovereignty should not block the protection of the basic rights of women, men and children (including the right to emergency relief and safety) which we believe all governments are obliged to protect through the UN.<sup>14</sup>

Despite a strong suspicion of military interventions, and scepticism about their actual management, NGOs do sometimes see a need to take sides in a conflict; or to intervene with considerable resources, perhaps even a new administration, to put right the wrongs of a failed state. They would like the international community to devote vast resources to right wrongs. They are suspicious of the compromises which UN peacekeeping forces have to make if they are to continue to operate with the consent of governments and belligerents. Over Bosnia and Rwanda, for example, many argued that there should have been a much more forceful role against the main groups engaged in mass killings--

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<sup>12</sup>

Ibid., pp. 118 and 204.

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See especially The Lost Agenda: Human Rights and UN Field Operations (New York: Human Rights Watch, 1993); and Peace-keeping and Human Rights (London: Amnesty International, January 1994).

<sup>14</sup>

'United Nations Interventions in Conflict Situations', a submission from Community Aid Abroad Australia, and Oxfam UK & Ireland, to Ambassador Richard Butler, Chair of the UN Preparatory Committee for the Fiftieth Anniversary, [February 1994], p. 10.

the Serbs in the one case, the Hutu governmental forces in the other.

Against this, those involved in peacekeeping and humanitarian operations can point out that states, whatever their rhetoric, still follow their interests, and do not give unlimited support to distant causes. That being so, operations have to be conducted in co-operation with local forces, and on a basis of consent. The local armed forces and political entities with which peacekeepers have to deal may only have a limited respect for human rights. They may indeed have a conception of society radically different from that of human rights advocates. It may be necessary to work with such bodies if anything in the peacekeeping or humanitarian field is to be achieved.

In theory, at least in certain hard cases, there is no way of reconciling the humanitarian and human rights approaches: they simply call for different and apparently incompatible policies. In practice the UN has incorporated a human rights element in some of its operations, especially for example in Cambodia and El Salvador, in its contributions to post-war reconstruction after long civil wars.

**h. Can humanitarian issues be separated from more political ones?**

There is a long and respected tradition of viewing certain types of crises in essentially or even exclusively humanitarian terms. For example, a famine may be viewed by some as a natural disaster, for which no particular person or policy is to blame, and to which a humanitarian response is appropriate. In the past, aid charities sometimes presented crises in essentially these terms: as for example in Ethiopia in the 1980s, where repeated humanitarian crises were caused largely by disastrous government policies, ongoing civil war, and the absence of free institutions through which changes could be introduced.

In tackling wars and civil wars, even though they are obviously man-made, the tradition of impartial humanitarian action is particularly strong. The work of the International Committee of the Red Cross exemplifies this tradition. At a time when other agencies are often caught up in larger political issues, whether because of the policies they advocate or because of their organizational bases and associations with particular protecting forces, the ICRC's reputation for independence and impartiality is particularly important. Indeed it is essential if the ICRC is to carry out such tasks as negotiating release of prisoners of war, or organizing medical transport. The same is true, if to a slightly lesser degree, of many other humanitarian organizations.

Because the crises in the post-Cold War world have for the most part been man-made, the pressure to find political solutions has been great. It is likely to remain so. In most disasters, especially man-made ones, there is no substitute for clear policies as to what is actually to be the basis of a future order. Such policies may point to action along very different lines from humanitarian action.

Yet in respect of many crises, including man-made ones, it simply is not possible for outsiders to agree on a political course of action, still less to impose it. That is one reason why, in both Rwanda and Bosnia, the UN has not sought to impose a particular outcome. Rather it has tried to help a new local balance to emerge--preferably from negotiation, but in the last resort from the fortunes of war. In such circumstances, humanitarian action has a definite but very limited function.

Wherever humanitarian action is taken, whether on its own or in conjunction with other measures, it may seem impartial and disinterested to the outsiders engaging in it, but it may well be viewed differently by the local forces. The history of humanitarian actions in the post-Cold War period suggests that it is indeed difficult for it to remain impartial, especially in circumstances of ongoing civil war. The attempt to keep it impartial is a necessary but uphill struggle.

It is quite widely agreed that the effective administration of humanitarian relief calls for a high degree of impartiality. As the President of the ICRC said in an address to the UN General Assembly in December 1992:

Humanitarian endeavour and political action must go their separate ways if the neutrality and impartiality of humanitarian work is not to be jeopardized... It is dangerous to link humanitarian activities aimed at meeting the needs of victims of a conflict with political measures designed to bring about the settlement of the dispute between the parties.

This points to a serious structural problem of the UN efforts in this area. It is undeniably difficult for the UN, and for agencies within the UN system, to maintain impartiality, when the UN system is by nature involved in a wide range of political decision-making, and when its security responsibilities may lead it to advocate enforcement measures against a particular party. This consideration, as well as the complex and cumbersome character of UN structures, has led some to conclude that the UN should not be in the humanitarian relief business at all. As James Ingram, Executive Director of the World Food Programme (WFP) from 1982 to 1992, has put it:

The question arises whether humanitarian goals may not be better achieved under a new and different regime. I believe they would. The United Nations should confine its role to political functions associated with the resolution of disputes, the prevention of conflict and coercive interventions to end it. Reaching and succouring the victims of conflict and coordinating the relief efforts of the international community should cease to be a United Nations responsibility.<sup>15</sup>

Ingram proposes instead that the humanitarian goal of saving lives should be performed by an enlarged and internationalized ICRC, or else by a new organization established by governments, preferably outside the UN framework. These proposals, for various reasons, are not likely to be implemented. The political pressures in the UN system militate in favour of UN involvement in this field, and despite all the difficulties some UN agencies have developed impressive skills and reputations. However, these proposals do usefully focus attention on the unavoidable conflicts between the UN's political and humanitarian roles. They also focus attention on the cumbersome nature of the UN's present structures.

## **6. THE ORGANIZATION OF HUMANITARIAN ACTION**

Suggestions that the Commonwealth or other regional bodies might have a major role in international humanitarian activities of one kind or another need to be based on some analysis, not only of the performance and limitations of existing humanitarian work world-wide, but also of the organizational strengths and weaknesses of such work. What follows is an extremely short summary of certain aspects of a large and multi-faceted problem.

### **a. Proliferation of different bodies and specialized agencies**

Both within and outside the UN system, an astonishing number of different bodies and specialized agencies deal with different types and aspects of humanitarian work. This is frequently seen as a source of weakness.

Within the UN system, it is sometimes suggested that the different and overlapping mandates of different agencies make effective responses impossible; that there is a need for overall strategic direction, for a clearer division of labour, for greater co-ordination between them; or that the number of such agencies should simply be reduced. As Gareth Evans has put it:

There are widely acknowledged inadequacies in the present UN international system, and structural reasons lie at the heart of them. In the first place, the post-Second World War relief system evolved from a structure created for different purposes. Apart from UNHCR and UNICEF, all the main agencies now involved in emergencies--i.e. WFP, UNDP, FAO and WHO--acquired that role as a secondary function, the main role being seen as the promotion of economic and social development. Notwithstanding the dramatic upsurge in their humanitarian relief work in the 1980s, the organisation of the agencies underwent no fundamental change.<sup>16</sup>

Furthermore, beyond the UN system there are literally thousands of relief agencies with very different structures, functions, and capacities. Many are proud of their independence,

and of their ability to act quickly without waiting for cumbersome international machinery to reach decisions. In general, each of the numerous bodies concerned with humanitarian action has its own special skills and capacities to act, and the situations in which they act are different. For example, the willingness of Médecins sans Frontières to act anywhere, without waiting for formal political agreement, has evoked much support, even though this group has found that it has had to withdraw from some impossibly dangerous situations, as in Somalia after the UN-backed UNITAF military intervention.

The picture of a large number of agencies, within and beyond the UN system, which were designed for one set of problems and is having trouble adapting to another set, is not altogether fair. Many agencies have, in accord with the spirit of much of the UN system, moved gradually beyond their original constitutive documents: they have tackled problems over and above those they were originally set up to address. For example, in accord with its Statute UNHCR was traditionally involved mainly in assistance to refugees who had left their own countries. Over the years, in response to a series of practical imperatives, UNHCR has come to concern itself very substantially with internally displaced persons, such as people forced to leave their homes, but who can be looked after within their own country.<sup>17</sup>

There have been several proposals to remedy the problem of the proliferation of agencies in the humanitarian field. These have included proposals for the establishment of one single consolidated UN body, for which various titles have been suggested: UN Relief Agency, or UN Disaster Response Agency. The idea of a single agency of this kind carries with it two main risks: first, all UN agencies go through periods of poor performance, so having all eggs in a single basket seems unwise; and second, consolidating everything under one roof would emphasise a divide, which is already serious enough and is outlined further below, between humanitarian relief and economic development.

#### **b. The UN Department of Humanitarian Affairs**

At present, the main effort is in co-ordination, not consolidation within a single agency. The co-ordination effort is centred on the UN Department of Humanitarian Affairs (DHA), based in New York and Geneva. The DHA was set up in March 1992, following General Assembly Resolution 46/182 of December 1991. The DHA has a lead role within the UN system in providing early warnings of humanitarian disasters. It also has a key role in co-ordinating action in the field. Despite understandable reservations, UN agencies have by and large accepted this, and a degree of co-ordination has begun to develop. Under the DHA, an Inter-Agency Standing Committee (IASC) meets quarterly, with representation from the heads of key UN agencies, of ICRC and the Federation of Red Cross Societies, and from three groupings of NGOs. In respect of particular countries in crisis there are now

single needs assessments, and consolidated financial appeals. In certain countries (as has happened, for example, in Mozambique, Rwanda and Somalia), the DHA can appoint a Humanitarian Coordinator to have overall responsibility for relief efforts. Sometimes this has worked. As two NGOs have said:

Our experience of working with UN agencies in emergencies is varied, but one thing we have learnt is that it is vital for the in-country UN authority to build a consensus among the various relief agencies and NGOs involved. In Mozambique, the Humanitarian Coordinator, whose authority is delegated from the Special Representative, has on the whole been able to do this.<sup>18</sup>

The emerging system of co-ordination under the DHA is gradually replacing a previous system, whereby in a particular country the UN Secretary-General designated a particular UN agency as the 'lead agency' which had overall responsibilities in respect of humanitarian relief operations. In Cambodia the lead agency was UNICEF; and in former Yugoslavia (where the operation began shortly before DHA was set up) it was, and remains, UNHCR.

Inevitably, within the new system a number of problems in co-ordinating humanitarian action remain. The system of co-ordination is not fundamentally different from one instituted twenty years earlier, on the basis of General Assembly Resolution 2816 (XXVI), calling on the Secretary-General to appoint a Disaster Relief Co-ordinator. The DHA itself has few resources compared to the other agencies it is intended to co-ordinate. It does not have executive power to direct aid in a particular crisis. The idea of co-ordination does not itself address the wider problem of overlapping mandates of different agencies. Pressures for centralized and co-ordinated decision-making can reduce operational effectiveness and flexibility in the field. The role of individual states, especially donors (whether of finance or services), has not diminished, and adds a layer of complexity to efforts at co-ordination. The emphasis on co-ordination within a country under a Humanitarian Co-ordinator does not itself solve the problem of crises which, as frequently happens, spill over frontiers and involve the territory of several states; nor does it solve the problem of relations with special envoys to a region, appointed by the UN Secretary-General. Somalia and Rwanda have been baptisms of fire for the system, and served as a reminder that when problems on the ground are extremely difficult, and the political responses to them are flawed, to expect a system of co-ordination to achieve success is to expect miracles. There remains, as there was before, an element of personal chemistry and happenstance in whether the different aspects of a relief effort do or do not meld into an effective whole in a particular crisis.

One notable practical and political problem of the new system under the DHA is the division of responsibilities in the field between the UNDP, concerned with long-term development



projects, and the DHA, concerned with emergency relief. There are genuine uncertainties about where their respective responsibilities end: the area of rehabilitation lies uneasily between development and relief. Also, many governments, especially in the Group of 77, are critical of the idea of the Humanitarian Co-ordinator for a particular country: they fear that this might involve meddling in their internal affairs. The fact that the appointment of a Humanitarian Coordinator is not subject to the agrément of the country concerned has strengthened such fears, reinforcing as it does ideas that humanitarian action and humanitarian intervention are intimately linked. There has been similar concern over the post of Emergency Relief Coordinator, also established on the basis of General Assembly Resolution 46/182.<sup>19</sup>

Attempts at co-ordination, including those taking place under DHA auspices, naturally meet a mixed response from some non-UN bodies, who could reasonably fear some loss of identity or capacity to act independently. The ICRC, which is of course a special case, has participated in various DHA initiatives, but in that context has had to specifically reiterate its independence and impartiality.

By its nature, the question of strengthening co-ordination of humanitarian activities is politically sensitive and needs continuous attention. It was debated by the UN General Assembly on 23 and 25 November 1994, with many Group of 77 states expressing reservations about the direction in which co-ordination has been moving. Work needs to be done to try to develop understanding between the DHA approach and members of the Group of 77. However, those involved in UN humanitarian operations in the field generally take the view that the most worrying problem is not co-ordination, but actual capacity. The inadequacy of resources, which of course reflects the limited character of states' commitment to humanitarian relief, remains the largest constraint on effective action.

### c. Early warning

A key element in any organization's response to challenges is early warning. Such warning may be valuable if it can assist efforts at prevention of crises, for example through diplomatic initiatives; and indeed early warning is quite often considered as part of 'preventive diplomacy'.<sup>20</sup> However, early warning also has a key role in the prompt and efficient delivery of humanitarian relief. Further, an efficient system of warning has a crucial role to play in the perceived fairness of any system of relief.

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<sup>19</sup>

For a brief account, see Tom J. Farer and Felice Gaer, 'The UN and Human Rights: At the End of the Beginning', in Roberts & Kingsbury, United Nations, Divided World, 2nd edn., p. 256.

<sup>20</sup>

Early warning is discussed as a sub-category of preventive diplomacy in Boutros Boutros-Ghali, An Agenda for Peace, UN, New York, June 1992.

If governments and international agencies simply react to the latest TV reports, certain crises will be favoured, others ignored--as the continuing tragedy in Afghanistan has largely been ignored in the West in the post-Cold War period. There is a need a more systematic form of situation assessment. There is also a need for the media which report on humanitarian disasters to encourage more thoughtful and judicious discussion of possible responses, rather than simply implying, as they sometimes do, that large-scale external intervention, overwhelmingly military in character, is the only mode of response meriting consideration.

Within many parts of the UN system there are means of gathering information and issuing warnings about impending disasters. Leading figures in such UN bodies as UNHCR and DHA, and also in non-UN bodies such as ICRC, can point to the stream of reports, press releases and memoranda they have issued, and which have not been followed by action. Partly this may be the problem of 'clutter', which is familiar to students of intelligence agencies. There are so many warnings, of so many impending crises, that it is hard for governments or UN bodies to know which ones really matter. As Gareth Evans has put it:

While there is little doubt that it is important for the UN to have good sources of information about the whole range of emerging threats, disputes, conflicts and other security crises, the problem is not only the lack of information, but also the system's ability to absorb the enormous amount of incoming information, analyse and apply it in a meaningful way.<sup>21</sup>

The problem of early warning is sometimes in reality a problem of will and capacity. Information is received by not acted upon. Governments, and international bodies, can suffer from 'compassion fatigue' every bit as much as individuals; and also from the all-too-human tendency to put off problems till tomorrow. They may only be stirred from inactivity by the actual advent of disaster, or by powerful media campaigns.

Not surprisingly, the idea that a particular body should be charged with amassing relevant information and issuing a formal warning of impending disaster has gained strength. To an extent, the DHA has this function. Yet there is evidence of practical difficulties in the idea of formal early warning. Some countries would vehemently object to being publicly named as the location of incipient catastrophe, and many UN officials sympathise with this opposition. To take an example almost at random, if there were to be a move to say that Algeria was on the brink of civil war, the diplomatic earthquake that would follow would be huge, and any advantage minimal.

Some have suggested that the ICRC, being impartial and independent, should have a role as an independent issuer of warnings. The political constraints on the ICRC making public pronouncements have decreased with the passing of the Cold War,



There is certainly a long and distinguished history of 'good offices' negotiations initiated by Secretary-Generals of the UN, not all of which were publicized at the time.<sup>24</sup> A more visible form of preventive action is the deployment of peacekeeping forces in an effort to discourage an outbreak of conflict in a particularly vulnerable area. Since December 1992, a segment of UNPROFOR in former Yugoslavia has been stationed in Macedonia, partly with the purpose of discouraging possible attacks on that former Yugoslav republic. This is an interesting beginning, whose end is not yet known, but which is tiny in comparison to the vast effort which has had to be made to deal with actual ongoing conflicts.

Throughout the centuries, one of the main functions of diplomacy has been to identify points of friction in advance, and to try to deal with them. There is a strong tendency in UN, and also some military, circles to talk of 'preventive diplomacy', 'preventive deployment', 'peacekeeping', 'peace-making', and 'peace-enforcement', as if between them these techniques constituted a full set of UN tools for addressing virtually any problem. They do not. There are many problems, of many types, which have eluded the best efforts of statesmen to address them over centuries, and will do so again. If the opportunities which the present moment in international history offers are to be grasped, there is a need to temper enthusiasm with a sense of tragedy, an awareness of the sheer difficulty of problems now being faced, and a recognition that every crisis is unique. There are no reach-me-down tool-kits or all-purpose answers.

Some aspects of preventive work can particularly affect sensitivities about sovereignty. They also involve difficult questions of intelligence gathering. If the idea of preventive diplomacy becomes associated exclusively with supranationalism, it could suffer. For these reasons, there may be advantages in many aspects of preventive diplomacy still being conducted by states--whether bilaterally, or in multilateral fora that raise fewer concerns about sovereignty than the UN system currently does.

#### b. Preventing civil war

The experience of the post-war period, and especially of the post-Cold War period, suggests that civil wars are a central problem of international relations, and the major cause of humanitarian disasters.

The term 'civil war' is here taken to encompass a wide range of communal conflicts, for example between different ethnic, religious, clan or other groups in a country. It is also used here to refer to wars of succession, such as that in Bosnia, which have a part communal, and part international, character.

In the past, most discussion of preventive diplomacy has been centred on the idea of conflict between states, not conflict

example, the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>27</sup> In much more general terms, Article 1 of the International Covenant on Civil and Political Rights, adopted in 1966, said: 'All peoples have the right of self-determination.'

What exactly does 'self-determination', freed of the adjective 'national', mean? In much advocacy of self-determination, including in deliberations in a UN framework, difficult aspects of this question were avoided. The delicate question of who the appropriate candidates for self-determination are, and whether secession from existing states can be permitted, was for the most part neglected. Underlying all this is the more basic question of exactly what the purported right to self-determination actually entails. Self-determination can reasonably be interpreted not in terms of one single end result, namely sovereign statehood, but in terms of process. It can imply a commitment to democracy within existing larger political frameworks. In UN debates in recent years there has been a tendency to free the idea of 'self-determination' from its earlier association with the idea of sovereignty, and to view it much more as an entitlement to democracy, or simply as a much more open-ended concept.

There have been many signs of recognition that the theory of national self-determination, taken to its logical conclusion, is disruptive. Some even see it as potentially leading to infinite and permanent fission of states. An Agenda for Peace says bravely that 'if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would become ever more difficult to achieve.'<sup>28</sup> That is a clear signal that there has to be some limit to the process of national self-determination. The well-known difficulties of the idea need to be much more widely understood, not to stop all self-determination--which is manifestly impossible--but to question whether national self-determination leading to statehood is the only legitimate goal, and to assist an understanding of why in so many cases it leads to such severe conflict.

**d. Democracy and good governance as mechanisms for the prevention of disasters**

In the post-Cold War period, a school of thought has emerged that stresses democracy, human rights and good governance as central to the prevention of humanitarian crises. This view, which has been advanced strongly by the Clinton administration, can draw on a number of persuasive arguments and observations. On the whole, it is claimed, democracies do not fight each other. Their mechanisms for achieving consensual change are the best alternative to political violence yet devised by man. Further, free institutions, especially a free press, can be a powerful

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<sup>27</sup>

Annexed to GA Res. 1514 (XV) of 14 December 1960.

<sup>28</sup>

Boutros Boutros-Ghali, An Agenda for Peace, para. 17.

traditions.

Naturally, such arguments about democracy should be viewed with scepticism. They may represent little more than convenient excuses for autocratic rulers to carry on in their accustomed ways. Many see such arguments as inherently weak, and unwelcome inasmuch as they might slow a historic trend toward democracy. However, different societies genuinely are different, and a healthy respect for their special characteristics is a necessary starting point for understanding them. It is certain is that in many societies the movement towards democracy will take time. Forcing the pace from outside requires careful thought.

The question of outside pressure to assist the development of democracy is complex. One form of such pressure has been the IMF and World Bank emphasis on 'conditionality'--an emphasis which sometimes takes the form of insisting on particular democratic processes being carried out. Global institutions are not always good at understanding the particularities of different societies, and at varying their prescriptions accordingly--especially where deeply held principles are involved. Regional institutions may sometimes be more appropriate bearers of such torches.

Further, even if there is agreement on its merits, democracy can assume a large variety of different forms, and it is hardly for outsiders to decide which of these is appropriate to a particular society.

In many situations there may be value in the international community putting emphasis on human rights rather than on democracy. This was one key aspect of the 1975 Helsinki Final Act and the follow-up conferences, and perhaps had a more pervasive long-term impact than direct advocacy of democracy could have done. Further, the increased emphasis in the international community on election assistance and monitoring may be the most useful contribution than can be made to an effective introduction of democratic norms and practices.

## 8. COMMONWEALTH CONSIDERATIONS

Suggestions that the Commonwealth as such might have a major part to play in the kind of humanitarian activities that have increased so dramatically in the post-Cold War World often meet a sceptical response from practitioners in the field. Their almost invariable view is that the Commonwealth is not a large organization, and is not particularly geared to taking large-scale action in such matters as humanitarian relief. Their experience is of valuable co-operation from numerous Commonwealth countries, but they note that this has almost always operated within the framework of UN agencies and peacekeeping operations.

This is not to say that the Commonwealth as such can never be the most appropriate vehicle for certain types of action, whether in peacekeeping or emergency relief. It is not difficult to imagine a crisis, for example affecting a Commonwealth state, in which the UN was reluctant or powerless to act. Nor is it difficult to imagine circumstances in which the elements of

Entire countries and communities are being savagely torn apart by conflicts fuelled by ethnic, religious, racial and other divisive tendencies. And we cannot rule out the possibility of such conflicts becoming more widespread in the future as societies become more cosmopolitan in many parts of the world. We should therefore begin to place greater emphasis on the need for the successful governance of pluralistic societies if we are to preempt some of the emerging threats to international peace and security.<sup>31</sup>

In seeking to promote values such as human rights, democracy, pluralism and tolerance, international organizations, including the Commonwealth, should put at least as much emphasis on slow processes aimed at bringing about positive change, as on direct outside pressure, intervention, and emergency action.

## 9. CONCLUSIONS

1. There has been a major and impressive increase in international humanitarian action since 1989, especially as a response to humanitarian crises in civil wars and failed states.

2. The main organizational framework for this increase in humanitarian action has been the UN system, but other bodies, not least the ICRC, have also seen a dramatic expansion of their activities.

3. In the post-Cold War era, the UN Security Council has a greatly enhanced capacity to agree on action, and has put great emphasis on humanitarian action in response to crisis situations, and on international humanitarian law. One reason why the Security Council has emphasized humanitarian issues may be that, faced with complex conflicts on which they have different perspectives, powers can more easily agree on measures of humanitarian relief than on definite political prescriptions.

4. The old and highly contested idea of 'humanitarian intervention' has been revived in the post-Cold War era, with certain new elements of which the most important is the requirement for a degree of authorization from the UN Security Council. However, there is no general agreement in the international community on the legitimacy of humanitarian intervention, nor is there likely to be. The experience of recent cases shows that there is a lack of willingness of powers to take part in interventions where the costs may be high. The actual practice of interventions in Somalia, Rwanda and elsewhere casts doubt on whether 'humanitarian intervention' is an appropriate term to describe such activities. The principle of non-intervention retains its importance, and only in the most exceptional cases is the international community likely to tolerate multilateral military involvements which do not have the consent of the country concerned. There is evidence of an ebbing of the interventionism of recent years.

humane world. States and international agencies are evidently nervous of taking on further burdens in the international humanitarian sphere. Furthermore, despite elements of supranationalism in many recent developments, states remain important decision-making bodies in international relations, and important means of seeing that international standards are in fact applied. Without increased great power effort, the world is not likely to be significantly more humane.

11. States and international organizations are placing increasing emphasis on preventive action. Inasmuch as civil war, broadly conceived, is the principal problem causing major humanitarian disasters in the contemporary world, the main need is not inter-state preventive diplomacy as traditionally conceived, but rather the encouragement of political tolerance; of less divisive ideas of 'self-determination'; of non-violent forms of political action; and of good government generally.

12. Democracy has made an impressive contribution to conflict prevention within many societies: it therefore is an important contributor to the avoidance of humanitarian disasters. However, democracy is not necessarily a solution to communal conflict, nor is it instantly applicable in all societies. Pressure for its adoption or reinstatement needs to be applied with understanding of the difficulties involved.

13. Suggestions of a major role for the Commonwealth in humanitarian activities often meet a sceptical response. Any Commonwealth involvement in issues concerned with humanitarian action, whether in the fields of assistance or peacekeeping, must of necessity be based on careful consideration both of where the greatest needs lie, and of where the Commonwealth's greatest assets lie. There could be possibilities for major Commonwealth action in circumstances where UN bodies were unable to act or the Commonwealth had a comparative advantage. There may be scope for a peacekeeping and assistance role in southern Africa.

14. The political role of the Commonwealth, as a body which combines a commitment to democracy with a wealth of shared knowledge and understanding, may be of particular value in acting as one forum for discussion of democratic ways forward. It has a valuable agenda-setting function, and a tradition of pragmatism. It is a useful forum for discussion of North-South issues, and could usefully address the currently contentious issue of development versus humanitarian assistance. It should put at least as much emphasis on slow processes aimed at bringing about positive change, as on direct outside pressure, intervention, and emergency action. These may be equally as important as humanitarian relief operations in pointing the way forward to a more humane world.

# TOWARDS A COMMONWEALTH HUMANITARIAN ORDER

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## PREFACE

*The aim here has been to write as concise a document as possible, one that might be seriously regarded by policy-makers or advisers, but one that does not ignore the intellectual foundations for a humanitarian order. Above all, it seeks to work within Commonwealth limits, and, although critical, not to be critical of the Commonwealth for being unable to operate outside its limits. As well as being concise, it has sought to make a number of highly specific recommendations.*

## 1. INTRODUCTION

Much has been made of the triumph of liberal values after the Cold War, and of the emergence of a global humanitarian order. No such global order has emerged. There exists, however, a tentative global agenda which is humanitarian in tone. Much of it is ameliorative, attempting to limit suffering once it has begun. Peace-keeping and refugee provision would be included here, as would be famine relief. Some of it is what might be called a "one shot" effort on behalf of some of the preconditions felt necessary for local humanitarian orders. Election observer groups would fall into this category. Finally, often very publicly, some of it is declaratory, and there is no end of rhetoric on humanitarian issues, and on the related issue of human rights. Although some of this global phraseology might enter local and national discourse, and might even be reflected in constitutional provisions or ministerial apparatus, the problems here are to do with the justiciability of constitutions, and the operational funds available to ministries. International assistance or intervention cannot be unilateral, because of the concept of state sovereignty and, often, because intervention in one state might accord advantage to a rival state and upset regional balances.

Where official discourse fears to tread, however, non-governmental organizations are prepared to go. The very naming of a group "Médécias sans Frontiers" is a complaint against the



concept of state sovereignty. Like all utilitarian concepts, that of state sovereignty holds power if that sovereignty benefits its citizens more than it denies them. A distinction can be drawn between an official international humanitarian agenda, and an unofficial one. The first respects sovereignty as a limit upon its assistance and intervention. The second is prepared to seek means of circumventing sovereignty, if people are denied humanitarian needs.

Here, some work with distinctions is necessary. A humanitarian need is related to but is not the same as a human right. As noted above, in practice sovereignty is a utilitarian concept and must pass utilitarian tests. It is also, however, a concept in political philosophy and, here, it is linked with the concept of citizenship. Historically, the two emerged in their modern forms simultaneously. Citizens are distinguished from subjects because citizens have rights. The extent of these rights has been debated but, at base, there is common agreement that citizens have a right to their basic needs. If these needs are not met, many would argue their right exists to demand their needs, and finally, to replace governments that consistently fail to provide for them. In this document, the idea of a humanitarian order begins with need but extends to right. In practical terms, it begins with redress and amelioration, and extends to democratic practice.

Of course, in daily diplomacy, particularly at high levels,

the concept of sovereignty is more flexible than it often seems. Judicious ~~behind-the-scenes telephone calls and meetings can have~~ greater effect than ~~sabre-rattling~~. The Commonwealth has had recent successes of this sort, notably in Kenya and Lesotho. This is a discharge of the Secretary-General's duties, implied strongly in the provision for his access to heads of government, and sanctioned by three decades of practice. However, this is both a ~~secret diplomacy - so is not itself a transparent process~~ - and it is essentially ad hoc. It can work from time to time, but it is not necessarily reliable. This document proposes, therefore, a series of transparent, well-defined mechanisms for Commonwealth action, building of course on achievements to date, but with the idea also of built-in "trigger" mechanisms. Since, however, the Commonwealth concern with a humanitarian order began with the Harare CHOGM in 1991, it might be well to return to that point before proceeding further.

#### Harare to Auckland

Harare was a turning point in Commonwealth history, and its emphasis on humanitarian issues was made possible by the conjuncture of three events:

1. the ending of the Cold War and the so-called triumph of liberal values;
2. the ending of the apartheid regime in South

Africa and, with it, the successful completion of a central Commonwealth campaign;

3. the final closing of the door to major institutional reform of the global financial bodies, the belated burial of the New International Economic Order - but this also meant little international finance for any global humanitarian order.

Nevertheless, the intent of Limassol was to give flesh to Harare, although it is unlikely that the Commonwealth can provide major funding either for a Commonwealth dimension to a global humanitarian order, or for a Commonwealth model for the world. Nevertheless, this paper will suggest a low-cost Commonwealth model in key humanitarian areas. Before it can do so, some of the problems of Harare should be addressed.

Forewarned of the Harare agenda, non-governmental organizations were present at the CHOGM and distributed literature critical of the human rights records of Commonwealth countries. The Human Rights Watch group, for instance, published a document entitled, "Abdication of Responsibility - The Commonwealth and Human Rights", in which it criticized specifically the human rights records of nine governments officially participating in the CHOGM, including the host

government. The document did not represent new findings or criticisms and, for the most part, reflected the findings of annually-released compendia published by Amnesty International and the U.S. State Department. What it did do, however, was to lodge two major implications for future Commonwealth work in the humanitarian field. The first was that the Commonwealth had, in some way, to keep a neighbourhood watch on its own backyard before it could suggest global action. The second was that Commonwealth performance would henceforth be monitored. A humanitarian order goes beyond what satisfies heads of government and the Commonwealth has entered a more contentious realm than was ever provided by South Africa. Auckland should either withdraw as gracefully as possible from this arena, or make specific and meaningful provision for Commonwealth action. It should avoid further unaccompanied declaratory work.

Some non-governmental groups accept the Commonwealth must work with what it's got, but suggest strict criteria for new membership. Auckland will deal directly with the case of Cameroonian membership, accepted in principle but also conditionally. Cameroon was given time to complete a constitutional process leading to greater human rights and democratic guarantees. Notwithstanding the often heated exchanges between the Cameroon Government and, e.g. the Committee for Human Rights in Cameroon, the issue of admission to the Commonwealth will provide material for non-governmental and press reaction to

the seriousness or otherwise of Auckland. It will be the test of any Declaration.

Press reaction to Harare was often sceptical. The Observer (13 October 1991) criticized the proposal to Harare of a Commonwealth human rights programme that merely sought to educate ('a diplomat's euphemism for propaganda') rather than criticize, judge and scrutinize. It is, however, easy to indulge a journalistic scepticism, harder to make real progress within real constraints. There is never going to be a Commonwealth Court of Human Rights, for instance, and nor should there be until global juridical institutions are themselves strengthened and respected. A Commonwealth programme cannot be merely aspirational, but it can proceed beyond lowest common denominators. It can provide models, a role often advertised for the Commonwealth. What follows is a series of definitional and practical actions the Commonwealth can take, bearing in mind all the considerations of this introduction.

## 2. PROTECTION OF REFUGEES

The Commonwealth cannot and should not provide large-scale relief for refugees. That is properly the role of more specialized agencies which are themselves under-funded. It can, however, make an important definitional contribution which might properly be via the work of an expert group, working closely with the Secretariat's Legal Division, reporting to heads of government

who would then issue a Declaration different in nature and intent to existing Commonwealth declarations. Its provisions would be voluntary, but its proclamation would be a model or example, defining not a Commonwealth view of international relations but a Commonwealth contribution - carrying with it the imprimatur of heads of government - to an eventual international treaty.

Current refugee law is rooted in the 1951 Geneva Convention Relating to the Status of Refugees. Particular rights and level of rights are detailed in 22 Articles. These are both extensive and applicable to refugees as a "permanent" category, i.e. the idea of temporary protection, although available in some national laws, does not exist in international law. The extent of rights to be accorded refugees by host states, and the permanent residence of such refugees within host states, has led to increasingly stricter definitions of who is a refugee. It is arguable that many people denied rights and fearing persecution in their home states cannot find both refuge and refugee rights in other states.

The influx of refugees can be dealt with on two bases. The first is via restriction of entry. The second is often overlooked and that is to do with the idea of temporary, rather than permanent protection. At present, two global regions subscribe to agreements which include provisions for temporary protection. These are the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, and the 1984 Cartagena

Declaration, a voluntary agreement of Central American states meant to demonstrate the efforts made by Latin American governments to adapt the tradition of asylum to the new conditions of massive displacement.

Those conditions of massive displacement - an almost clinical term that should not conceal massive suffering - have meant severe pressures on Commonwealth countries and have often led to the poorest countries providing a humanitarian example to those richer. Membership of an expert group should represent such exemplary effort. The compassion of the south can inform the north.

### 3. EARLY WARNING

By the time refugees appear, conflict has already developed. The Commonwealth can play a greater role in predicting and attempting to provide settlements of differences. The Secretary-General, as noted above, already utilizes his access to heads of government and is able to play an advisory and even privately admonishing role. In Kenya, with the knowledge of government, he performed such a role with regard to the opposition parties. The Memorandum of Understanding only provides for his access to heads of government, so that unilateral access by the Secretary-General to opposition groups is outside his remit. What is proposed here is a practice that requires reportage to heads of government but, included in such reportage, will be the results of the Secretary-

General's enquiries among all parties to a possibly violent dispute. The idea here is of early warning, but develops from existing Commonwealth practice in three ways.

1. Instead of a two-yearly commentary on important political issues, in his report to CHOGMs, the Secretary-General should be able to warn of conflict at any time. This may be either to a "star chamber" of agreed heads of government, or to a committee of the whole of all Commonwealth high commissioners in London, using the Commonwealth Committee on Southern Africa as a model.
2. In warning of violent conflict, the Secretary-General should also be in a position to advise on the grounds upon which mediation may be possible, based on his consultations with all parties involved.
3. The Secretary-General cannot do this by himself and it is suggested he have a "trouble-shooting" staff capacity. This is described below, under the rubric of mediation.

Neither the Commonwealth generally, nor specific directly-



affected states, need accept the Secretary-General's early warnings. In this way the practice of sovereignty is maintained. It should be maintained, however, in the full knowledge of a growing international consensus against violence and the suffering it causes.

#### 4. MEDIATION

Mediation may be to settle a conflict already begun, but might profitably seek to settle an incipient conflict before the stage of violence.

Analysts have traditionally described two major types of mediation. Track One is conducted by official actors, i.e. governmental or especially commissioned or sanctioned inter-governmental personnel. Track Two mediation is conducted by unofficial actors, e.g. the Catholic Church in what became the preparatory stages leading to the Rome talks between the parties to the Mozambique conflict; Norwegian academics and trades unionists in the early stages of the Oslo meetings leading to agreement on a Palestinian National Authority. In both the Mozambican and Oslo cases, Track Two merged with or handed over to Track One. In many cases, official mediation requires an entry-point crafted by unofficial means or personnel. ~~Increasingly, the two tracks are deployed in a conscious strategy~~

have coined the term Track Three for such conscious interplay of Tracks One and Two.

The Commonwealth Secretary-General has, from the beginning, played a mediation role. Arnold Smith sought to mediate at the very beginning of the Nigerian civil war. The Secretariat played a third-party facilitating role at Geneva and Lancaster House for the Zimbabwean Patriotic Front - facilitation often being seen as an adjunct to mediation, both being aids or spurs to negotiation; one helps or even chairs the negotiating process, the other helps parties actually to negotiate. This latter has been particularly important with guerilla parties unable to equal the negotiating expertise of an experienced government. Very recently, RENAMO would not have negotiated at Rome, subjected itself to mediation, without first having had its position, and the expression of that position, facilitated. Mediation in South African townships very often consisted in the facilitation of township negotiating expertise in meetings with the police. But this means that controversy is in-built to mediation; it can give the appearance of taking sides, and that is a significant risk in an inter-governmental organization. It is, however, a risk which can be accommodated within the apparatus outlined below.

There are four mechanisms within a Commonwealth mediation apparatus which might be utilized by an appropriately provisioned Secretary-General, including aspects of both Track One and Track Two mediation.

1. Mediation by the Secretary-General personally, as in the case of Arnold Smith in the Nigerian civil war; Shridath Ramphal at the Lusaka CHOGM in seeking a consensus between the British and other delegations over Rhodesia; Emeka Anyaoku in Kenya in securing the cooperation of all parties to enter parliament.

2. Mediation, under the Secretary-General's guidance, by Secretariat officers, as in the recent case involving king, army, and government in Lesotho. These officers, however, who made continuous visits to Lesotho over a protracted period, were also holders of other responsibilities, including the directorship of an important Secretariat division. It is proposed, therefore, that there should be

3. mediation by a special "rapid response" team within the Secretariat. These would be specially recruited and have few other responsibilities, except also to help the Secretary-General in the early warning and "trouble-shooting" activity suggested above. The operational model here would be the CFTC Technical Assistance Group, a small collection of advisers who could be dispatched at a moment's notice to assist governments with sudden technical difficulties.

4. Mediation by distinguished Commonwealth citizens outside the Secretariat. The closest model to this within the Commonwealth was the Eminent Persons Group to South Africa - although individual distinguished citizens, such as Obasanjo of Nigeria and Kaunda of Zambia (as in the non-Commonwealth cases of Carter of the U.S.A.) have acted as wise men on their own account, though often linked to a more official agenda. Groupings of this sort could also, outside the Secretariat and its limitations, engage in the work of facilitation. It may be that a special Commonwealth fund, subscribed voluntarily, could finance such preventive and ameliorative diplomacy by such groups.

Such apparatus could not only mediate before and during conflict, but assist in post-conflict trauma stabilization, an essential activity to prevent conflicts re-erupting.

#### 5. ELECTION OBSERVER GROUPS

Independent groups, but under Secretariat briefing, with Secretariat support, and chosen finally (though having consulted with heads of government) by the Secretary-General, have observed elections since 1980. (There were proto-types before this time, but the style of composition, operation and regularity of such groups date from 1980.) In that year, the Commonwealth Observer

Group in Zimbabwe was a great success, but that in Uganda was disastrous, described as 'shameful' in the Economist (25-31 August 1984). Since then, such groups have stabilized their operations and standards to the extent that they may fairly be described as generally successful and fair. Four major criticisms may, however, be attached to observer groups, both Commonwealth and non-Commonwealth groups.

1. They often lack local knowledge and are likely to miss or misunderstand the nuances of intimidation, bribery and vote-related patronage.

2. Elections, even if free and fair, are a tip of an ice-berg of what constitutes democracy. Concentration on elections alone, the fetishisation of elections, may mean an essentially undemocratic style of government is validated because of a single democratic exercise. In this argument, of far greater importance is a means of gauging the health of "civil society", that area where the rights of citizens, particularly in their non-governmental organized groups, meet the operations of the state. If operational necessity frequently diminishes citizen rights, then the state may be said not to be operating democratically.

3. With the increasing popularity of election observer groups has come the question of standards of observation. Just as there are now the phenomena of "development tourism", and "disaster tourism", in which experts descend briefly and then make decisions that change people's lives, there may now be said to be an "electoral tourism", in which observation groups pass judgements on the basis of brief, cursory investigation.

4. In 1979, as the Lancaster House talks over the independence of Zimbabwe concluded, Lord Carrington issued an open invitation to all Commonwealth countries to send observers. The Commonwealth Secretary-General fought hard to have accepted a single, official and well-coordinated observer group. Fragmentation of observation into several uncoordinated groups, no matter how well-meaning, might have meant that an unpopular or questionable election result might have received validation by at least some of the groups present. The more groups present, the more the law of averages will favour divided conclusions. Fifteen years after the pioneering Commonwealth Observer Group in Zimbabwe, the very success of that group has led to a

proliferation of them. The UN, EU, OAU, a host of non-governmental groups, and the Commonwealth, not to mention groups sent by individual governments, were all present in the 1994 South African elections. All declared those elections free and fair, but none could comment in specific terms on irregularities in the Natal counting, and none had the expertise to monitor computer break-downs during the national counting. The prospect for divided opinion in jurisdictions smaller than South Africa's is great. Only the size of the country and the generality of freeness and fairness throughout most of a large country allowed general agreement among the groups. A calculating government of a smaller country may in future, however, invite as many observer groups as possible.

Added to these four major criticisms may be three ancillary ones.

1. Election observation in a period of violence is very difficult unless the protection of observers is secured. Many UN workers died in Cambodia. Military violence heralded the transition period in Namibia. Had this occurred closer to the elections themselves, observers, particularly the very small Commonwealth Observer Group, could not have safely investigated it.

2. There is a temptation that official observer groups might bow to regional pressures if a particular result in a closely-fought election might seem to increase the prospects of regional security.

3. There is a temptation that official observer groups might favour a particular result in a closely-fought election if the defending government has been important in the international councils to which the observer groups themselves are affiliated. The criticism of the Independent (25 January 1993) of the Commonwealth observation of the Kenyan elections was that the findings of the group had not been 'above politics'.

The Independent made a less contentious point when it argued 'that the very presence of "eminent persons" from India, Jamaica, Britain, Canada and other Commonwealth countries' could not by itself ensure a free election. Impartiality of observation; its thoroughness based on the widest access to all stages, levels, and physical locations of the electoral process; and the eminence of the observers are all key ingredients to a respected judgement. Some defence must also be capable of being raised to the seven criticisms outlined above. The point here, in partial agreement at least with the Independent, is that eminence by



itself is not enough. These exercises cannot be located on the reputations of the groups or of their members.

Nor can they become routine or conducted according to an old formula. Both for the sake of future Commonwealth observer groups and other such groups, a definitional and standard-setting exercise might profitably be undertaken. This involves the second expert group to be recommended in this document. Its remit would be to examine the procedures of election observation and to establish standards. This should not involve the imposition of field criteria that standardizes the filling in of forms but leaves the observer no time to exercise his or her judgement. It should be to do with minimum thresholds of

1. voter registration
2. voter access to stations
3. conditions of privacy
4. box collection and ballot counting

in addition to reporting systems to do with

5. violence and coercion and other inducements  
towards voters
6. violence and coercion of candidates
7. availability of media to parties

and standards to do with the composition of

8. electoral commissions.

These are reasonably common-place considerations in the work of observer groups. However, what should be especially considered is the capacity of groups to observe whether particular thresholds have indeed been reached or crossed. Commonwealth observer groups tend to work to the model established by their ancestor group in Zimbabwe. That group was not only successful but plain lucky. It was so "fat-free", and spread so thinly, improvising its infra-structure, that it could as easily have been unsuccessful, and its operational methods subsequently derided as being simplistic and naive. Although Commonwealth groups have since grown in experience, not all such risks have been overcome. Observation groups have been funded cheaply and cannot persistently be expected to do well. Moreover, other non-Commonwealth groups keep repeating mistakes or have omissions in their work and judgements that Commonwealth groups may now largely avoid. Moreover, very few groups of any sort can provide comprehensive election coverage and the work of an expert group should consider what is a threshold of representativeness and what is not. Without being as monolithic and expensive as UN exercises, Commonwealth groups may well benefit from being slightly better provisioned and staffed. In the Commonwealth record of achievement in human rights-related activity, the work of observer groups is its largest testimony. A firm basis for operation, with clearly-defined and exemplary standards, might now secure their success into the future.

## 6. THE MONITORING OF HUMAN RIGHTS

The success thus far of election observer groups should not be seen as a full discharge of Commonwealth responsibilities in human rights. The Commonwealth reached a stage of maturity in 1971 with the Singapore Declaration. Sir William Dale, the eminent jurist, saw this as giving the Commonwealth both a legal personality and an agreed sense of purpose. Its brief but definite concern with human rights was amplified in the 1979 Lusaka Declaration on Racism and Racial Prejudice which viewed racial equality and the anticipation of non-discrimination as fundamental rights. At Harare in 1991, the Declaration - seen by many as a coming of age for a Commonwealth agenda begun twenty years earlier in Singapore - was unambiguously centred on democratic practice, human security and human rights. What then to do about the monitoring and promotion of human rights in the face of the sovereignty of Commonwealth members? The Commonwealth Secretariat, as an inter-governmental body, can neither intervene in the domestic affairs of its members, nor criticise them beyond a carefully modulated point. The result is at least press scepticism of the seriousness of the enterprise begun in Harare, and no public consciousness at all that the Commonwealth has a central human rights concern.

The penultimate paragraph of the Harare Declaration, however, called upon 'the Commonwealth Parliamentary Association and non-governmental Commonwealth organizations to play their

full part in promoting these objectives' of democratic practice, human security and human rights (para.12). It is this area of action with which this document now turns, bearing in mind NGO reaction to the Harare Declaration: The group, Article 19, lamented the absence of 'genuine mechanisms for implementation', and the absence also of declared measures to do with 'sanctions and expulsion' for states violating human rights'; the Commonwealth Human Rights Initiative was disappointed that its recommendation of a 'Standing Commission on Human Rights' had not been approved by the Declaration.

As noted above, press reaction to the Commonwealth Observer Group in Kenya concluded that 'the very presence of "eminent persons"' ... could not by itself ensure a free election. So also NGO reaction at Harare stressed that it is 'unrealistic to suppose that peer pressure alone will ensure that its peoples enjoy satisfactory human rights'.

A very great deal of this criticism was conceptually pertinent, but impossible to discharge within the scope of an inter-governmental body. If such criticisms are left unanswered, however, the Commonwealth human rights initiative can never be taken seriously. Here, it is proposed to locate the tasks of monitoring human rights, approbation and further criticism firmly within the non-governmental sector with which Harare sought a 'spirit of co-operation and mutual support' (para.12).

So that the official Commonwealth is seen as supporting the

initiative, the Secretariat should seek to organize a fund to finance an independent group of eminent and wise persons, just persons, who will sit outside the sphere of Secretariat operations, but who will constitute a Commonwealth Human Rights Commission. Given the nature and limits of inter-governmental work, the Commissioners can have no powers to impose their views or recommendations upon the Secretariat or upon Commonwealth states. It should not constitute a court or tribunal. It should, however, act as a monitor and warn of steps over the threshold of human rights acceptability. However, it may be that future applications for Commonwealth membership might properly be accompanied by a clean bill of health from the Commissioners. Moreover, the Commissioners might properly meet every two years, both to consider evidence and to allow Commonwealth senior officials to present country positions; their report might then become an input, a customary though not official input, to the subsequent CHOGM. The report should be a public document just as the U.S. State Department's and Amnesty's are.

Some twelve Commissioners, comprising retired or active members of independent judiciaries, distinguished scholars and other eminent persons should be sufficient both for the task at hand and the need for geographical spread.

## 7. THE SCOPE OF THE ARGUMENT

### a. The Secretary-General's Remarks of 25 May 1994

In his "Lessons from Commonwealth Experience" remarks to the first meeting of the Inter-Governmental Group on the Emergence of a Global Humanitarian Order, the Secretary-General made a number of points. The 'promotion of fundamental political values' was firmly associated with assistance in the process towards democratic rule. He discoursed on a three-phased Commonwealth approach, involving pre-election, in-election, and post-election activity. The in-election phase, to do with observer groups has been considered above. The other two phases, consisting mainly in the use of good offices and technical services and advice, makes use of both the Secretary-General's access to heads of government and existing Secretariat divisions, personnel and apparatus. In the more extensive and prolonged use of good offices, as in the case of Lesotho, Secretariat staff usage was equally prolonged. It has thus been recommended above that specialist personnel be recruited for such work, thus reducing the burden on existing staff. If good offices had been required in more states than just one, the Secretariat may well not have coped.

In other Remarks, however, and outside the historical conditions that allowed Commonwealth influence in South Africa, the limits of Commonwealth activity are revealed. The Commonwealth has firmly supported the territorial integrity of

Cyprus and Belize - but has not been able to act in a major fashion over Cyprus, and it was British troops who for long guaranteed the integrity of Belize. Similarly, although there was a deliberately-named Commonwealth Monitoring Force that oversaw the cease-fire in Zimbabwe, this was British-organized and key Commonwealth armed forces deliberately not invited to participate. The Commonwealth has no independent capacity to organize peace-keeping and, at time of writing, member states are hard pressed to sustain their roles in UN or ECOWAS peace-keeping, with little or no capacity for further participations.

The weight of the Secretary-General's Remarks are clear. Whenever situations require the established Commonwealth facilities of good offices and access to heads of government, the Commonwealth, through the Secretary-General, can respond - often well - but the point has been made that prolonged Secretariat involvement, particularly in long-running disputes, is painfully under-staffed. Apart from good offices, advice, etc., the sole existing organized and public apparatus to sustain fundamental political values are the election observer groups. These have their own limits and, even without them, cannot solely represent an extensive Commonwealth contribution to any global humanitarian order. This paper, therefore, has sought to extend - within Commonwealth limits - such a contribution.

b. The Conceptual Foundation

Commonwealth limits may be narrowly drawn; this is not the same as cautiously drawn. There are democratic and human principles and values, and there are local customs, traditions and practices. There is a bedrock of the former which should not be compromised by the latter. Where that bedrock is has often been debated. However, its general location is clear enough in the Harare Declaration; moreover, it is clear enough in all great religions which infuse Commonwealth countries - Christianity, Islam, Hinduism, and Buddhism all preach tolerance, liberal and just governmental administration, and the rights of individuals within material society. They, together with Confucianism, set strict parameters beyond which the just ruler cannot go. The onus is on rulers and governments who, historically and in the twentieth century, have done greater harm to their peoples than their peoples have done to them. The Report of the Commission for a New Asia (1994) recognized that authoritarian systems have grown and provide a rocky foundation for democratic growth. 'The foundation will take time to change and to be changed. But change there must be.' (p.58)

In this context the Remark of the Secretary-General on differing responses to heckling at political rallies is inopportune. In some societies, he wrote, hecklers would be verbally engaged. In others, however, they might be manhandled 'not because the people love freedom less but because the local



culture demands greater respect for holders of high office.' (pp.10-11) Many would say there is only a short step from the idea that rulers should only be challenged in a respectful manner to the idea that rulers should not be challenged at all. A Commonwealth that supported often impolite freedom struggles must find a line that cannot be crossed or, if unable to do so itself, support and even sponsor the independent work of those who can, and election observer groups briefed as to where the River Rubicon flows.

c. The List of Recommendations

- i. Protection of Refugees. The creation of an expert group to consider the question of temporary protection, as yet unprovided for in international law.
- ii. Early Warning. The institutionalized practice of the Commonwealth Secretary-General giving early information on conflict within or affecting Commonwealth regions, either to a "star chamber" of governments or to a Committee of the whole of High Commissioners in London, using the Commonwealth Committee on Southern Africa as a model.

iii. Mediation

- a. The creation of a "rapid response" mediation team of specialized officers within the Secretariat, along the lines of the CFTC Technical Assistance Group.
- b. Further use of "eminent persons", either singly or in groups.

iv. Election Observer Groups. The creation of an expert group to consider the scope and standards required of Commonwealth and other observer groups, both to defuse growing criticism and scepticism of such groups, and to prevent a species of international, electoral "tourism". Commonwealth groups, as the largest, most public Commonwealth expression of concern for rights and political values, should be exemplary.

v. Human Rights Monitoring. The utilization of partnership with selected eminent persons in the non-governmental area to create an unofficial Commonwealth Human Rights Commission which, nevertheless, will be invited to report to CHOGMs.

d. The cost of the recommendations

Over recent years the Commonwealth has been financially squeezed. The same governments that have led the squeeze also lead the move towards humanitarian provision and human rights. Such governments cannot have it both ways. The above recommendations concern

elements of a programme attainable within Commonwealth political limits; extensive enough to answer public criticism of the Commonwealth and human rights; but also free from grand expenditure plans. The cost of the recommendations can be calculated to cover:

- i. The cost of two expert groups, one on temporary protection and one on observer groups. There is probably existing budget for these.
- ii. The recruitment of a three-person "rapid response" mediation team. These should be at Assistant Director/Special Adviser level. There is no existing budget for these and they will add to establishment costs.
- iii. The subscription towards two Commonwealth funds, one to support mediation by eminent persons, and one to support a Commonwealth Human Rights Commission. These would not be part of establishment costs and would be financed from voluntary as opposed to assessed contributions.

In total, therefore, what is presented is a minimum-cost endeavour, in which the only additional establishment costs, to be met from assessed contributions, are the appointment, support, and travel component related to the mediation team.

## 8. CONCLUSION

There is a moral impetus towards humanitarian provision and human rights. When this impetus meets political constraints the course of action should not be to seek the lowest common denominator. Doing so will only raise public doubts as to which has greater weight for the Commonwealth: human and political values, or a form of governmental accommodation. Following the latter path will damage the Commonwealth's credibility more greatly than not. What this paper has tried to do has been threefold: firstly, it has sought to clarify some intellectual foundations; secondly, it has sought to put forward a programme of action within the constraints of the Commonwealth as an organization; thirdly, it has sought to conceive of such action also in ways that will meet public expectations, and budgets that cannot be dramatically expanded.

As noted above, however, what was embarked upon at Harare has the potential to become far more contentious than South Africa ever was for the Commonwealth. The organization has no funds to be a major actor in humanitarian relief. If it has also no political desire to carry forward less costly activity to do

with humanitarian and political values, it would be good public relations to withdraw from further declaratory work at Auckland and thereafter.