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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF
WORK OF THE COMMISSION

HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

Internally displaced persons

Report of the Representative of the Secretary-General, Mr. Francis M. Deng,
submitted pursuant to Commission on Human Rights resolution 1993/95

Addendum

Profiles in displacement: Burundi

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Introduction

1. The crisis of internal displacement in Burundi represents a particular case of human tragedy resulting from intense ethnic conflict. The tragedy is evident in the fact that over half a million displaced persons out of a total population of about five and a half million were in need of humanitarian assistance in the beginning of October 1994. The magnitude of the crisis, the manner in which it is manifested, and the protection and assistance needs created by ethnic cleavages all cry out for international attention. It is also worth noting that this has been an endemic situation for decades.

2. Burundi was among the countries of primary concern to the Representative of the Secretary-General since the inception of his mandate. Indeed, the Permanent Representative of Burundi in Geneva was the first to extend to the Representative of the Secretary-General her Government's invitation for him to visit the country. Plans for the visit were eventually agreed upon and confirmed by a written invitation extended to the Representative on 17 January 1994. Initially, the Representative intended to visit both Burundi and Rwanda at the end of April 1994. However, following the tragic deaths of the Presidents of the two countries on 6 April 1994 and their devastating consequences for the region, the Representative had to postpone the visit since the objectives of the mission, a principal element of which was dialogue with the Governments, could not be pursued under those circumstances. The visit to Burundi eventually took place from 30 August to 4 September 1994.

3. Apart from the background information in the introduction, this report, as was the case with previous mission reports or country profiles, begins with an overview of the crisis of internal displacement in the country, followed by an account of the mission and its findings, and ends with a presentation of the main conclusions and recommendations.

4. The Representative wishes to express his appreciation for the cooperation and assistance of the Government of Burundi, in particular the Ministry of External Relations and Cooperation and the Ministry of Defence, which facilitated greatly the arrangements of his programme and his transportation in four provinces of the country.

5. The general policy orientation of the Representative in carrying out his mandate has been explained in his previous reports to the Commission (see E/CN.4/1994/44 and Add.1, E/CN.4/1995/50/Add.1). Nevertheless, it may be useful to recall here that his approach rests on the recognition that internally displaced persons fall within the domestic jurisdiction and therefore the national sovereignty of the countries concerned and on the fundamental assumption that sovereignty carries with it responsibilities towards the citizens, which Governments do in fact discharge under normal circumstances. When Governments find themselves unable to provide their citizens with adequate protection and assistance, they are expected to invite or welcome international cooperation to supplement or complement their own efforts. Building upon the notions of respect for sovereignty and recognition of the responsibilities associated with it, the Representative of the Secretary-General aims at discharging his mandate in a spirit of cooperation with the Governments, to try to understand the problems of internal

displacement in a particular context, the obstacles to providing adequate protection and assistance, and what needs to be done both by the country concerned and the international community to remedy the situation.

6. The Representative of the Secretary-General also places great importance on linking the humanitarian and human rights issues involved, with the challenge of peace as the most effective means of removing the underlying causes of displacement. Without peaceful management or resolution of these conflicts, there can be no effective and durable answers to the problems of internal displacement. While conflict resolution is not within his mandate per se, the Representative of the Secretary-General considers it his correlative responsibility to convey this message to the principal parties to internal conflicts and to the international community.

7. Although the time of the mission to Burundi was short relative to the magnitude and complexity of the crisis, the programme of activities was both extensive and intensive. The Representative was received by the interim President of the Republic, the Prime Minister, the Minister of External Relations and Cooperation, the Minister of National Defence, and the Minister for Human Rights and Refugees. He also met with the Chiefs of Staff of the Armed Forces and the Gendarmerie, and other senior officers in the Army and with representatives of the Forum of Negotiations (i.e. the moderating body of the negotiations in which personalities from the Church and the civic society participated). The Representative also had meetings with the Special Representative of the United Nations Secretary-General for Burundi, with the Special Representative of the Organization of African Unity (OAU) and with delegates of intergovernmental organizations, the specialized agencies and non-governmental organizations (NGOs), as well as with members of the academic community. During his visits to four provinces, the Representative was received by the Governor and the Commander-in-Chief of each province or their delegates. He also had the opportunity to hold hearings with a great number of displaced persons.

8. During his short stop-over in Kenya on his way to Burundi and back, the Representative had the opportunity to be briefed on developments in the region by the United Nations agencies based in Nairobi. In particular, he participated in a meeting of the United Nations Disaster Management Team (UNDMT) convened by the United Nations Development Programme (UNDP) resident representative, in his capacity as resident coordinator, on the United Nations Sub-Saharan Africa Initiative. He also had meetings with representatives of the UNDP Programme on Internally Displaced Persons, the African Women in Crisis Programme (AFWIC) of the United Nations Development Fund for Women (UNIFEM), and with the UNDP Resident Representative for Somalia, with whom he discussed developments since his mission to that country in 1992.

I. OVERVIEW OF THE CRISIS

A. Manifestation of displacement

9. Displacement has become a way of life for many of the people of Burundi. For the past 30 years people have fled their homes and collines (literally meaning hills) in the course of inter-ethnic and inter-communal violence. The most serious massacres took place in 1972, in 1988 (the so-called massacres of

Ntega and Marangara), in November 1991 and in October 1993. Official estimates place the current number of the internally displaced in the country at around 600,000, 1/ although accurate figures are impossible to obtain, due to the variety of the patterns of displacement. One source mentioned that there are approximately 14,000 displaced persons in Bujumbura itself. The northern provinces of Kayanza, Ngozi, Muyinga and Kirundo as well as Muramvya, Gitega and Rutana all have large populations of internally displaced persons, most of them women (of whom many are widows) and children. No part of the country has remained unaffected by the conflict.

10. Many Burundian refugees have sought asylum in third countries, notably the United Republic of Tanzania, Zaire and Rwanda, and a small but steady flow into Tanzania was continuing at the time of the mission. After the October 1993 massacres 700,000 persons left the country. Over the last two years, political events in the country and in the region have made the whole picture of forced population movements even more volatile and complex. Large numbers of Burundian refugees (mostly Hutu) repatriated, and many of those who were in Rwanda began to return since April 1994, particularly to the western and northern provinces of Cibitoke, Bubanza, Ngozi, Muyinga and Kirundo.

11. Long-standing refugee populations, mostly Tutsi, have repatriated spontaneously to Rwanda in the last months, often vacating land which they had occupied or leaving investments and jobs. At the same time new waves of Rwandan refugees, mostly Hutu, have arrived in the northern provinces after the massacres of April 1994. Internally displaced persons have occasionally moved into camps of former Rwandan refugees.

12. The Representative was told that there were two distinct categories of internally displaced persons in the country since the massacres of October 1993 (see below under chapter I.B. for a discussion of the events): "displaced" and "dispersed". The first category consists mostly of members of the Tutsi group who sought protection in approximately 75 administrative centres or army camps run by the Tutsi-dominated military, while the second category includes persons, mostly Hutu, who fled to the marshes, the valleys and the woods, trying to avoid the central roads and to hide themselves from the military. In that respect, the dispersed faced more protection and assistance problems than the displaced in the army-protected camps. Apparently, many of them have now returned to their homes, or at least to their areas of origin, although it was reported that some prefer not to spend the night in their homes but to seek shelter in the woods. On the other hand, the displaced of Tutsi origin seem to experience difficulties in being able to return home. This was said to be in part because of fear of being persecuted or killed by their neighbours and also because the military is alleged to discourage their departure. It is much more difficult to identify the dispersed, since they are not concentrated as a group but literally are dispersed throughout the country. The Representative visited many camps where he spoke with both Hutu and Tutsi displaced persons, but he did not encounter any dispersed persons. In the context of the present report the term "internally displaced" implies both of these categories.

13. More than in any other country the Representative has visited, people in Burundi tend to be keenly aware of all forms of displacement, how they

interrelate and how they compare to each other. Except for the distinction made between the displaced and the dispersed, to the extent that displacement affects their nationals, whether internally or as refugees or exiles abroad, the Burundian officials consider their plight a matter of national concern. Comparisons were often made between the services received by Rwandan refugees from the international community and those available to the internally displaced, which, as will be discussed later, reflected considerable disparities, a situation which generated tension and resentment among the Burundians.

14. Displacement is a direct result of the violence in Burundi. The main reasons for this violence are reported to be the artificial boundaries (ethnic, though not geographic) left behind by the colonial Powers, their divide-and-rule policies and attitudes of favouritism towards one group or another. This has been compounded by the lack of power-sharing between the two groups resulting in unremitting struggle for political power, national resources, education and employment opportunities. Political manipulation of "ethnic identities" is another serious reason. The lack of any accountability after each violent episode also spawns further violence and retaliation. In this context, the idea of a disadvantaged majority should be mentioned as a significant factor. In particular, Tutsi domination of the police and the military, while a source of protection for the minority, also exacerbated tensions among the Hutu majority. What is particularly troubling is the extraordinary capacity to capitalize on those issues and provoke brutality on the scale seen in Burundi. Neither immemorial antagonisms, nor the colonialist policies can explain this on their own. 2/

B. The nature of the conflict

1. General background

15. Burundi is situated in Central Africa, along Lake Tanganyika and shares borders with Rwanda, Tanzania and Zaire. Its population is about 5,450,000 people. According to statistics dating back to the 1930s, 85 per cent of the population are Hutu, 14 per cent Tutsi and 1 per cent Batwa. The Hutu are considered to originate from Chad and the Niger, while the Tutsi, of Nilo-ethiopian origin, are thought to come from eastern Africa. The Batwa originate from the Congo Basin (Pygmies). This breakdown does not take into account the Ganwa (those of princely origin), nor a handful of other immigrant communities, nor those of mixed origins (mixed marriages having been common in the past). 3/ It also does not take into account the fact that within both groups there existed historically rankings of status nor that passage from one group to another, for instance becoming Tutsi from Hutu or Ganwa, was also possible. The Burundians all speak the same language, Kirundi, which is both the national and the official language. Other languages, as provided for in the Constitution, are also spoken. 4/ Despite ethnic differences, the Burundians live intermingled on the thousands of hills of the country without distinction on account of ethnicity. They are therefore inextricably bound to one another and cannot contemplate any notions of separation.

16. Although settlements have always been mixed, society in Burundi 5/ was built along a "class" and "caste" system. 6/ While their distinctions were

not rigidly determined along "ethnic" or "tribal" lines, 7/ there was significant correlation between class and ethnicity, with the Tutsis associated with the upper class and the Hutus with the lower class. This did not mean that all Tutsis were upper class nor all Hutus lower class. Both class and the ethnic correlations were also dynamic. A Hutu could rise economically and socially and become a "Tutsi".

17. Hutu and Tutsi relationships were in the past cemented by their shared loyalty to common institutions. Kingship was such an institution; patron-client ties constituted another powerful socio-political institution. Patrons were expected to offer protection and gifts in exchange for services and offerings in kind. As social and political roles that once gave meaning and cohesion to membership in the community vanished, the use of the terms "Hutu" and "Tutsi" with ethnic connotations became more rigid. 8/ Today the use of the term "Hutu" describes an ethnic group which is poorer and powerless, whereas the Tutsi, especially the Hima (a Tutsi subgroup), are the pre-eminent power holders. 9/ Nevertheless, the impression should not be created that the terms "Hutu" and "Tutsi" are figments as the "official truth" during the Bagaza period (1976-1987) would have it. This stance restricted discussion on the underlying problems of ethnicity and expression of ethnic differences without solving them.

18. The role of the army has to be mentioned at the outset. It has exercised a strong influence over the governing of the country which has experienced frequent coups d'état and coup attempts. The 18,000-member security forces consist of the military (army and gendarmerie), the police, the Sureté, and various other bodies, and is composed almost exclusively of members of the Tutsi group. Notably, many Burundians, especially Hutu, have come to believe that the army is not a national army because soldiers, particularly Tutsi, often engage in retaliatory activities, as if facing enemies, when called to intervene to restore public order. Nevertheless, the army is not one unified body. Segments exist, based on the separation of the armed forces into different bodies with no clear lines of command, as well as on distinct regional origins (e.g. there has traditionally been animosity between Tutsi from Bururi and Tutsi from Muramvya). There are also cleavages between the High Command and the field bases. This means that indiscriminate incriminations of the army vis-à-vis its involvement in massacres are not always well founded. On the other hand, it is clear that until the army becomes a genuine national army, peace will remain elusive.

2. Brief historical background

(a) Military regimes

19. The transition from traditional power structures to "modern" politics has by no means been an easy one. Two Ganwa (princely) dynasties continued fighting for control during the era of the colonial Powers, (first Germany from 1889 to 1918, then Belgium until 1962) as they had done during the pre-colonial era. The Party of Unity and National Progress (Uprona) was dominated by the Ganwa Bezi, while the Christian Democratic Party (PDC) was led by the Ganwa Batare. In the legislative elections of September 1961

Uprona won, with Prince Rwagasoré as Prime Minister designate. A month later, however, Rwagasoré was assassinated. The political game switched from Ganwa to Hutu and Tutsi hands for the first time.

20. Burundi gained its independence from Belgium in July 1962. Until 1966 the crown continued to stabilize the situation. Violent incidents erupted after the elections in 1966, following which the Prime Minister, Michel Micombero, a Tutsi of the Hima group from Bururi, 10/ overthrew the monarchy and declared a republic, concentrating power in the army. The National Assembly was dissolved and later replaced with a committee of officers, which, by 1971, was made up of 24 Tutsi and 3 Hutu, and Uprona was declared the sole party. Serious intra-Tutsi rivalries for power emerged. At this time Hutu were already being systematically purged from the army. The transition from a Ganwa-run kingdom to a Tutsi-dominated military dictatorship to the exclusion of Hutus caused more violence. For the next 25 years Tutsi factions fought over control, turning the Hutu into scapegoats whenever the Hutu would rise up and demand more equitable power-sharing. On the other hand, whenever efforts towards power-sharing were made, extremists from both groups would resort to violence, to delay or cancel them.

21. Massacres had taken place in 1965 and 1967, but the most serious ones took place in 1972 triggered by Hutu militants from the Burundian refugee community in Tanzania. Hundreds if not thousands of Tutsi were killed and there is widespread fear that what had happened to Rwanda's Tutsi, namely, systematic subjection and extermination, would happen to them too. The Tutsi retaliation and repression that followed were instant. The first victims were Hutus with education: secondary school and university students, teachers, nurses, doctors, priests, pastors, drivers, headmasters, businessmen, shopkeepers, civil servants, bank clerks, professors. Most Hutu families lost members. Hutu widows moved to the city outskirts when their houses were seized by Tutsi. Many Tutsis also fled. Many left the interior, where they felt frightened among Hutu neighbours, and moved to Bujumbura to fill the many jobs now vacant. Others rushed to occupy the flat, fertile, palm-oil-producing strip of lake shore south of Bujumbura, after the flight of very many Hutu who had been living there. Reports have spoken of genocidal acts and of hundreds of thousands of Hutus killed. 11/

22. These events had great reverberations in Burundi; yet, nothing was ever done about the massacres. There has never been an official inquiry into them, an accounting, or any effort to bring to justice those responsible for the killings. Thereafter there was no question of Hutus entering the army, and many refused to send their children to school, fearing they were exposing them to a future massacre. Those at school had no role models. The educated, competent, urbane were all Tutsi. That there was a "lost" Hutu generation is still evident today in the political life of the country.

23. There was little power-sharing following the massacres, even after Micombero was overthrown by his deputy chief of staff, Colonel Jean Baptiste Bagaza, also a Hima (Tutsi subgroup). There were no massacres during Bagaza's 11-year rule and many refugees returned home. Bagaza reportedly hoped development would push his country through the ethnic deadlock. Observers note that he engaged in a series of reforms, without, however, addressing the ethnic issue. 12/ All provincial governors were Tutsi and most

judges, university and school teachers, magistrates and heads of hospitals were Tutsi too. Uprona remained a Tutsi party and its members were the ones to benefit mostly from Bagaza's management of the economy. In the last years of the Bagaza regime corruption and nepotism reportedly flourished. 13/ In the meantime, in 1980 activists from the Burundian Hutu refugee community formed the Palipehutu, or the Party for the Liberation of the Hutu People, in refugee camps in Tanzania. Bagaza was himself deposed in 1987 by a group of army officers and a cousin of his and nephew of Micombero, Major Pierre Buyoya, became President.

24. In August 1988 frustrated Hutu hopes for an improvement were at the root of hundreds of ethnic killings. Thousands were killed. This time the regions most affected were Ntega commune in Kirundo province and Marangara commune in Ngozi province, both bordering Rwanda. Palipehutu members from Rwanda had been infiltrating into Burundi and sporadic fights were taking place until Hutus turned against the Tutsi community, many of them Rwandan refugees. The army pursued those assumed responsible (although it is unclear how much resistance these people who had no guns put up against the soldiers) 14/ and in the next eight days it reportedly killed large numbers of civilians, including women and children. More than 60,000 people poured into Rwanda across the swamps and the Akanyaru river. Others took refuge within Burundi in swamp areas. The massacres were surprising even to the Burundians. Hutu had to face the fact that the army was still prepared to use maximum force and Tutsi that Hutu could still massacre many Tutsi before soldiers reached the scene.

(b) Reforms and elections

25. Supported by moderate Tutsi and restraining Tutsi hard-liners, Buyoya used the 1988 crisis to begin reforms for more power-sharing. In October 1988 he appointed a Commission of National Unity, half Hutu, half Tutsi, to explore the ethnic question. He shuffled his cabinet, removing perceived hard-liners, and increasing the number of Hutu from 6 to 12, so that they held the majority of the 23. He created the post of prime minister and appointed a Hutu. Aid continued to flow into the country, as the donor Governments perceived him as the only solution. 14/

26. Although reforms were formulated slowly, gradually there was more freedom of association and expression. The military retreated from politics and parity became the principle for appointments to important government bodies, which were composed of half Hutu, half Tutsi. The main landmarks were the Unity Charter and the new Constitution. Both were preceded by reports that were debated country-wide, and though the debate was stilted and stage-managed, it allowed the population to begin to reflect on the root causes of their problems. 14/ The Unity Charter, a bill of rights banning discrimination, was adopted by a national referendum in February 1991. The new Constitution, which ended 26 years of one-party rule and allowed for a pluralist system, came into effect in March 1992. One noteworthy element of the new Constitution is its attempt to resurrect the institution of ubusingantahe, i.e. the local notables who in the past played a critical role in promoting social integration in the collines.

27. Despite President Buyoya's call for unity and his reforms, fundamental problems were addressed only superficially. For instance, the Commission of National Unity effectively concluded that the Hutu were to blame for the former tragedies and that Hutu and Tutsi had suffered equally. Any reference to these tragedies was deemed "anti-unity". Frodebu (Front of Democrats of Burundi, of largely Hutu membership), which was emerging as a force, began arguing that only human rights and social justice could result in unity. "Civil disobedience" became common and many Burundians joined the opposition.

28. Efforts to introduce power-sharing and more equity met once again with resistance and violence from extreme wings of both groups. New outbreaks of ethnic violence in November 1991 and April 1992 in Bubanza and Cibitoke erupted, triggered by activists turning against Rwandan Tutsi refugees. Most assailants were cadres of Palipehutu, members of the highly politicized Hutu refugee community. Although its leaders at home and abroad denied involvement, a hard-line section of the movement allegedly realized that Buyoya's reforms and the emergence of an internal, essentially Hutu opposition were undercutting its strength. It has also been reported that the Government might have engineered the violence committed by Hutu elements in order to justify the repression against the Palipehutu. The end result was their dismantling. Survivors responded by organizing vigilante groups, which then carried out executions against Hutu civilians together with the military. The November 1991 crisis as well as other developments in March 1992 were the pretext for the decapitation of the hard-line pro-Bagaza Tutsi faction within the army.

29. The preparations for the presidential election in 1993 were nevertheless generally peaceful. Almost a dozen political parties were formed, but it soon became apparent that the race was between Uprona and Frodebu. Uprona argued that Frodebu was recruiting on an ethnic basis, and it was largely true that Frodebu was able to enlist only few Tutsi. Frodebu's statements, on the other hand, were allegedly distorted by the press, largely pro-Uprona. It has been suggested that the inability of the Buyoya regime to confront the responsibility that the Tutsi, especially the Hima faction from Bururi, bear for the genocidal events in the past is one reason why it inspired so little trust among the Hutu. 14/

30. On 1 June 1993, Burundi's first ever presidential elections took place rather calmly, and despite a few allegations of irregularities, they were generally considered to be free and fair by the 60 international and 300 local monitors. Within 24 hours it was clear that Frodebu's candidate, Melchior Ndadaye, had won an overwhelming victory. Uprona supporters alleged that the Hutu had voted as an ethnic bloc. Yet Buyoya said he had accepted the verdict of the ballot boxes and urged Burundians to do the same. A few weeks later, in peaceful legislative elections, Frodebu won 71.4 per cent. Ndadaye appointed a Tutsi from Uprona as Prime Minister. Nine out of 23 Government ministers were Tutsi and 6 portfolios were held by Uprona and 13 by Frodebu. President Ndadaye opened rapidly many delicate dossiers: the repatriation of 300,000 refugees from Rwanda and Tanzania, the separation of the gendarmerie from the armed forces and the recruitment, in all provinces, of 2,000 soldiers including, this time, Hutu.

c. The events of October 1993

31. The experiment in democracy and power-sharing was short-lived. On 31 July 1993 a coup d'état was attempted but aborted. On 21 October 1993, Tutsi paratroopers overthrew President Ndadaye and he, along with other cabinet ministers, was assassinated. Heavy intercommunal fighting was reported as Hutu civilians turned against Tutsi. Soldiers called to restore order came to find that their families had been killed and attacked Hutus. Refugees once again fled the country to escape the killings. The military declared a state of emergency the next day, sealed the national borders and announced the formation of a council of "public salvation". The worst killings were reported to have taken place in the provinces of Ruyigi, Ngozi, Bubanza and Kirundo.

32. These events were categorically condemned by the national and the international community; soon thereafter the coup d'état crumbled. On 28 October it appeared that the Government had resumed power with its surviving members. By January 1994 those who had fled during the events started to return to their homes. On 13 January the National Assembly elected a new President, Cyprien Ntaryamira, a Hutu. The President and the Government were installed in early February following a careful distribution of ministerial posts in the Government (Frodebu was allotted 60 per cent of the cabinet positions, the opposition the remaining 40 per cent). Serious violence erupted in March 1994. On 6 April 1994 President Ntaryamira was killed after the plane carrying him and the President of Rwanda was shot down in Kigali; the Chairman of the National Assembly, Sylvestre Ntibanduganya, replaced him. In the negotiations that followed, both sides adopted rigid positions: the majority argued that the army was responsible for the massacres, while the opposition accused Frodebu of being the instigator of the massacres and requested that it be dismantled.

C. Consequences of the conflict

33. As discussed earlier, displacement has become endemic, especially since 1972, and has affected the lives of a large part of Burundi's population. This has been one of the most serious and disruptive consequences of the conflict.

34. The conflict and the violence have further had a number of negative implications for the enjoyment of human rights, the functioning of the Government and the society as a whole. Members of the opposing sides committed serious human rights abuses during and following the 1993 coup d'état attempt. Casualty figures for the massacres of October 1993 will remain unknown until people return to their homes and the countryside has sufficiently stabilized to permit investigation of suspected burial sites. 18/

35. The events of October 1993 disrupted the normal functions of the Government. Even a year later, international agencies are faced occasionally with difficulties in working with the authorities, since many officials have fled and have not resumed their posts. This impacts on a variety of activities, including distribution of food assistance and the functioning of hospitals and schools.

36. Another serious consequence has been the rupture of the social fabric. Commentators suggested that death had become such an every-day phenomenon that it no longer shocked people. On the contrary, some people had come to believe that power could be asserted only through an all-out war. The stakes rise with the fact that Burundi has rarely attracted international attention, and it is not easily believed that the international community would intervene to prevent such a confrontation. Traditional leaders and elders are said to have lost the respect they traditionally enjoyed in the eyes of the youth. Undoubtedly, this will be one of the most difficult wounds to heal. On the other hand, it has to be emphasized that there were cases where Hutu protected Tutsi and vice versa. One commentator noted that those of the refugees who are still alive owe it to members of the other group.

D. Land and economy

37. A critical issue with regard to both the causes of and the solutions to the problem of displacement is that of land. In Burundi, land holding is very fluid. Few legal titles to land exist, resulting in disagreements and confrontations when land is redistributed or changes hands. This was the case, for instance, following the redistribution to lower military officials and soldiers of land that had belonged to Hutus who left the country in 1972. Since then this land changed hands frequently, being passed on to others who would acquire legal title after a period of years if acquired in good faith from the previous occupier (bona fide occupier). The Government of Ndadaye tried to reinstall the returnees and former owners to their lands. This caused fear among the new owners that they would be evicted, and created unavoidable tensions.

38. Four fifths of the population are occupied with agriculture. Farms tend to be small given the density of the population (Burundi is the second most densely populated country in Africa, after Rwanda). Land, however, is not just property; it is also part of a person's identity. Allocation and distribution of land are not seen as merely technical, but also political matters.

39. The economy of Burundi is based essentially on subsistence agriculture and coffee and tea exports. The country normally has a high degree of self-sufficiency in food. The massive displacement caused by the October 1993 events disrupted severely both the monetary ^{19/} and the subsistence economies, which lead to serious food deficits and acute malnutrition during the first months of 1994. The situation, however, has improved in the last few months due to the availability of food aid, satisfactory harvests from February to June and nutritional rehabilitation projects. Incidence of malnutrition was reported to be worsening in the provinces of Ngozi and Kayanza, owing to the massive influx of Rwandan refugees. The October 1993 crisis also affected livestock production. The deteriorating economy and rising unemployment have made land even more important in terms of securing one's livelihood.

E. The regional parameters

40. The situation in Burundi is further complicated by regional developments: the political situation in particular in neighbouring Rwanda has always

affected, and will continue to affect greatly, the situation in Burundi. For this reason, an analysis of the situation in Burundi without reference to the situation in Rwanda would be incomplete. On the other hand, it must be stressed that Rwanda has a history of its own; actors, alliances and power have historically had a different configuration. In that sense, linking the analysis of the situation in Burundi with that in Rwanda too closely can lead to distorted results. The following paragraphs provide a brief overview of the history of Rwanda to facilitate an understanding of its influence.

41. Like Burundi, Rwanda was one part of the German colony of eastern Africa, later to become a League of Nations trusteeship territory under Belgian administration. Although Rwandans share many cultural characteristics, ethnic relations were not as fluid as in Burundi. Hence, the countries exhibited radically different political trajectories, with Burundi acceding to independence in 1962 as a constitutional monarchy and Rwanda as a Hutu-dominated republic. 20/ What makes Rwanda a "subversive" neighbour for Burundi is not so much that it has often provided sanctuary for Hutu extremists in the past, but that its recent history serves as a powerful source of influence for both the Hutu and the Tutsi in Burundi.

42. Between 1959 and 1966 thousands of Tutsi were killed in Rwanda and their cattle and land expropriated. Many thousands more fled to camps or other countries, creating the initial Banyarwanda refugees. Guerrilla bands (the Inyenzi) were organized at this time and started launching attacks on Rwanda. After each such attack, the Tutsi in Rwanda would suffer from reprisals, both instantaneous and organized by the authorities and the survivors' stories, along with the presence of armed Rwandan Tutsi on Burundi soil, had a major impact on ethnic relations in Burundi. Tutsi extremists in Burundi exploited the bitterness of the refugees, some of whom were keen to wreak violence on any Hutu. Conversely, Rwanda provided sanctuary for Burundian Hutu extremists. In 1973 Major General Juvénal Habyarimana seized power and ruled the country until April 1994. Tutsi were systematically excluded from advantageous positions, while Hutu coming from the President's home region enjoyed significant privileges. 21/ In 1990 the Rwandan Patriotic Front (RPF, the Tutsi-led rebel force), invaded Rwanda from Uganda; in August 1993 the Government and the RPF signed a peace agreement in Arusha (Tanzania) and invited the United Nations to send a peace-keeping force to monitor its implementation. The Governments of Burundi, Tanzania, Zaire and Uganda participated as observers in a series of previous agreements, collectively known as Arusha Accords, one of which provides, inter alia, for the return of the Rwandan refugees, the non-use of territories of other States as bases for destabilizing Rwanda, and the disarmament of militias. On 5 October 1993, the request for a peace-keeping force was approved by the Security Council, which established the United Nations Assistance Mission to Rwanda (UNAMIR).

43. Peace in the region was not to be achieved so easily. Political violence in Rwanda reached an unprecedented scale in the days following 6 April 1994 (when the plane carrying the Presidents of Rwanda and Burundi was shot down). Hundreds of thousands of Tutsis were killed in genocidal assaults, and political assassinations of Hutus also took place. Within two weeks it was estimated that at least 900,000 people had been displaced by the armed

conflict in the north and were living in makeshift camps; 22/ following the RPF's advance and capture of power in July 1994, millions fled Rwanda to Zaire, northern Burundi and Tanzania. The conditions under which they fled and their situation are described in the report of the Special Rapporteur on the human rights situation in Rwanda, following his second mission to that country from 29 to 31 July 1994. 23/

44. The repercussions of the genocide in Rwanda will be felt in the region for many decades to come. News about alleged retaliatory killings by the Rwandan Patriotic Front against Hutus, and acts discouraging the Hutu refugees from returning, with the ultimate objective of creating a Tutsi-land in the south-east, allow little space for hopes about rapid progress towards peace. Not only the political and human rights situation, but also the humanitarian needs of the two countries will remain closely connected.

F. The legal context

45. Burundi has signed a number of international human rights instruments and has incorporated a variety of human rights provisions in its Constitution; by so doing it has chosen to commit itself to the protection of the rights included in those instruments for all its citizens; this includes not simply abstaining from committing violations but also taking any positive measures necessary for their protection.

46. Burundi has signed and ratified, inter alia, the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Political Rights of Women and the African Charter on Human and People's Rights.

47. Burundi has also signed the Convention and Protocol relating to the Status of Refugees as well as the OAU Convention governing the Specific Aspects of Refugee Problems in Africa. This last instrument extends the term "refugee" to persons who, "owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality". Burundi has therefore undertaken a commitment to protect the rights of the Rwandan refugees as stipulated in this Convention.

48. Burundi has not signed the Convention on the Prevention and Punishment of the Crime of Genocide. This Convention, which has been signed by over 90 countries, declares that genocide is a crime under international law, i.e. a grave offence against the laws of nations for which the individual perpetrator is punishable. The Convention defines "genocide" as the commission of certain enumerated acts "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such". The acts constituting genocide include: (a) killing members of the group; (b) causing

serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part. The crime of genocide is prohibited under international customary law, thus having become a peremptory norm binding upon all States, as the Commission of Experts established according to Security Council resolution 935 (1994) has stated with relation to the recent events in Rwanda. 24/

49. Burundi has signed neither of the two Optional Protocols to the International Covenant on Civil and Political Rights, nor the UNESCO Convention against Discrimination in Education.

50. With regard to international humanitarian law, Burundi has signed the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. Article 3 of the Convention (common to the four Geneva Conventions and applicable to situations of internal armed conflict) provides for minimum standards of protection to civilians. Whether a particular set of events qualifies as "internal armed conflict" depends on the factual situation. The Commentary on the Geneva Conventions 25/ mentions that "speaking generally, it must be recognized that the[se] conflicts ... are armed conflicts, with armed forces on either side engaged in hostilities". It also indicates a number of other criteria such as the existence of a party in revolt, with an organized military force and an authority responsible for its acts to which the legal Government must respond by having recourse to its regular military forces. Certainly, some of the events that have taken place in Burundi would seem to fall within the ambit of this provision. Burundi has also signed the Protocol Additional to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II of 1979).

51. The Constitution of Burundi, of 9 March 1992, protects several fundamental rights for all citizens, including freedom of movement, freedom of opinion and expression and the right to life and physical integrity. It also provides that the provisions of the international instruments to which the country has acceded form an integral part of the Constitution.

II. THE MISSION AND ITS FINDINGS

A. Areas visited

52. The Representative visited camps in some of the northern provinces with large populations of displaced persons. These were: Rango (in the province of Kayanza), Mirama (in Kirundo), Mukoni (in Muyinga), Shombo (in Muramvya) and Mbuye (in Muramvya). He also visited a refugee camp in Rukuramigabo (in Kirundo). During these visits he was received by the Government and military authorities of these regions.

53. Approximately 5,000 displaced persons (Tutsis) were being sheltered in Rango. Most were women and children, or rather widows and orphans since, according to the Governor, there were only 25 men among the displaced (it was noted that a large number of men had been killed in the October 1993 events). The first had arrived in October and November 1993, when their houses were destroyed and their relatives killed; initially most were sheltered in the

school nearby. Since March 1994 the camp had swelled and was now visibly overcrowded. Many did not even have shelter, and were concerned because the rainy season (September-October) was approaching. Dysentery, lack of clean water and pumps, lack of tents and blankets, lack of medicines and health care were the most serious problems reported in the camp. Food was said not to be a serious problem; however, it was not possible to plant in the surrounding arable lands, in order to supplement the food assistance, since the displaced had no seeds. Some children were accommodated in the schools, although by no means all. The Representative was told that some people had returned to their homes the preceding month and had started to rebuild their houses, but new incidents of violence had forced them to return to the camp. People felt that there were too many armed gangs present in their areas of origin and were afraid to return, despite attempts by the local authorities to pursue a pacification campaign. No serious security problems were reported in the camp.

54. Mirama and Mukoni presented a similar picture. More than 8,000 people are now in Mirama, mostly Tutsis, living in huts made of banana leaves, some of them covered with plastic sheeting. The camp in Mukoni had been established in April 1994 for the displaced who were being sheltered until then in the schools and the Uprona premises in Muyinga (mostly Tutsis, although the Representative did have the chance to speak with a displaced person who identified himself as Hutu). More displaced had arrived in the camp in April following a number of violent incidents in the area. The Representative was told that when the army returned to the barracks in November 1993, many of the people who were being protected by the army in the hills had decided to move with it to the town. People in Mukoni said that they received some food from international relief agencies, which they considered not to be enough; they also said they regretted the fact that most of the food was being sent to the hills and the communities, but not to the camps. They interpreted this as an attempt on behalf of the international agencies to force them to return to their collines despite their fear of those who had chased them away.

55. More than 1,000 Hutu and Tutsi displaced persons, approximately 600 men and 450 women and children, were being sheltered in the camp in Shombo, near a school, when the Representative visited the area. The camp had been established on 22-24 July 1994, following incidents of violence. Some people had been able to do some harvesting of crops, but this was not sufficient to cover the needs of the displaced; for this reason, WFP had been distributing food through a local implementing partner, but it seemed that for an unduly long period of time, food had not been delivered to that particular camp for reasons that neither the WFP representative nor the local administrative authorities could adequately explain. Some children went to the adjacent school and the director of the school had become the de facto director of the camp. There was no health centre in the area and lack of health care seemed to be one of the biggest problems there. A brigade was present in the camp and had occasionally escorted the people to their farms to harvest. No security problems in the camp were reported to the Representative, although the presence of Tutsi authorities might have been a factor.

56. In Mbuye, in a camp sheltering approximately 6,500 displaced persons from the province of Muramvya for the past 10 months, conditions were even more

deplorable due to congestion, worn shelter materials, and inadequate medical and health facilities. There was a school nearby but children did not attend, for lack of money and clothes. In addition, there seemed to be little hope of return, as the houses of these people had been completely destroyed and stability had not returned to the hills where they were coming from. Here too, however, some had been able to return to their lands to do some harvesting.

57. The refugee camp the Representative visited, in Rukuramigabo, is administered under the supervision of UNHCR. There, the International Committee of the Red Cross and CONCERN, a Canadian NGO, provide food and health services (dispensary and clinic). Thirty thousand Rwandan refugees (mostly Hutu) who arrived between 13 June and 6 July 1994 are being sheltered in huts covered with plastic sheeting, and provided with water and cooking materials. Ten huts form a cell, four cells a "quartier" and four "quartiers" a "secteur". No security problems had been reported so far with the inhabitants of the local village, who profit from the presence of the refugees, who purchase wood and other materials from them.

58. What seemed to be lacking the most in the camps of the displaced was basic organization and know-how about how to establish and administer a shelter for the affected population. This was at the root of all other contrasts in the quality of health, water, sanitation and food provision between these camps and the Rwandan refugee camps. One relief worker mentioned the lack of structure and authority in the camps of the displaced as the most striking difference between the two categories of camps.

59. The lack of health services was another important difference between the refugee camps and those of the displaced. Food availability did not seem to be a serious problem although food distribution seemed to be more problematic in the case of the displaced persons' camps. The fundamental reason why the refugee camps were better organized was that UNHCR and its implementing partners initiate and supervise the organization. In the case of the displaced persons' camps, no agency, national or international, was available to help organize camp structures and the provision of services.

B. Humanitarian and human rights issues

1. General human rights and humanitarian problems

60. The power disparities between Tutsi and Hutu were reflected in the fact that the camps of the displaced, who are predominantly Tutsi, were protected by the army, which is also predominantly Tutsi, while the dispersed - predominantly Hutu - found protection by keeping away from the army, thus not being easily reachable. This confirms information on relief needs received by the Representative prior to his mission according to which the displaced, who were mostly gathered in schools and buildings of the public administration near the towns, could be provided with services fairly quickly after their displacement, whereas the dispersed remained largely unattended to and were in a much more dire situation when the international relief agencies encountered them. This means that many displaced did not have unimpeded access to safety and assistance and that, as a consequence, there was great loss of life.

61. Apart from the instances of displacement mentioned earlier, there have been recent localized eruptions of violence, which have created new pockets of internally displaced persons especially in Kayanza, Muyinga, Muramvya, Ngozi, and Cibitoke. Displacement of this nature can violate a number of recognized rights including freedom of movement and free choice of residence. For example, the Governor of Muramvya explained that 11 communes in the province had been affected in the violence of 1993; most were now returning to calm, although schools and markets were not operating in many areas. Yet people were still fleeing from communities in Rutegama, Buya and Kigama. Approximately 60,000 people were thought to be displaced in Muramvya alone, some of them in centres being protected by the army and some others staying with relatives. In some camps one could find both Hutu and Tutsi displaced, in others only Tutsi, yet in others principally Hutu, depending on the events that had occurred and their location. It seemed that in some cases armed gangs had attacked some of the communes under the pretext of inter-ethnic violence, but in reality in order to plunder and steal; in such cases of activity of a common crime nature, Hutu and Tutsi were victimized indiscriminately. A large number of persons had been displaced in June and July and most of them had still no shelter. Insecurity in and around camps has increased in the past few months; shooting incidents in which the displaced, the local population and the army have been involved, have been recently reported.

62. Insecurity has had a serious impact on the nutritional situation. A serious deterioration could develop at the slightest sign of the resumption of crisis, thereby threatening the right to food. Food shortages were being felt most strongly in those provinces where households were discouraged from keeping food reserves because of lack of security and looting. The food supply situation was further complicated in the northern provinces by the volatile security there: cases of cattle rustling and theft of seeds and foodstuffs were reported, as the refugees, the returnees, the displaced, and the local population competed for the limited available food supplies.

63. As discussed earlier, the army has been implicated in human rights abuses resulting in displacement. This is partly attributable to the fact that there is no single law enforcement structure, as responsibility is vested in the armed forces, the gendarmerie and a number of separate civil police services not united under a common authority. The armed forces are occasionally involved in restoring public order, although no specific training is given for this task and those involved in such operations have no choice but to use military equipment and military tactics. In such cases a number of provisions of international humanitarian law, such as article 17 of Protocol II Additional to the Geneva Conventions which prohibits the displacement of civilian populations for reasons related to the conflict, may have been violated.

64. Impunity remains a very serious problem in the country. 26/ Ever since the massacres of 1972 justice has effectively not been rendered; the same applies to the October 1993 massacres. Retaliatory massacres of Tutsi and massive revenge killings of civilians especially by rogue elements not fully controlled by the military have occurred. In all these instances the right to life has been violated. In addition, criminality, which is on the

rise, coupled with the proliferation of arms and the formation of militias from both sides, are serious problems that need to be dealt with by a strengthened system of law enforcement.

65. The Representative was told repeatedly by government officials that the Government could not take care of the displaced because it does not have the resources. Other officials thought that the problem was not the lack of resources but the lack of security and political will. Some government officials thought that the problem was more serious for the displaced Tutsi, because they were afraid to return home to plant, whereas the dispersed, although also hiding out of fear, had access to their lands. Others thought that the displaced could, and on occasion in fact did, go to their farms to plant and harvest, and that all in all they were in less need than the refugees and some of the returnees who did not have access to any land at all.

66. Representatives of the international agencies stressed that the primary responsibility for caring for the displaced rests with the authorities of the country. The UNHCR delegate explained that his office had a mandate to protect and assist the refugees, who by definition had lesser access to resources and could become a serious security problem for the authorities if they were not given adequate support. Nevertheless, some of the displaced criticized the fact that the international agencies "discriminated" against them and provided assistance to their "enemies" and not to them, the "victims". Some officials suggested that the population did not know the "rules" and that the difference in treatment could foster threats to the security of the refugees.

2. Discrimination in the enjoyment of human rights

67. The Constitution adopted in 1992 and approved by 90 per cent of the population in a referendum provided for equal status and protection for all without discrimination; as the Committee on the Elimination of Racial Discrimination noted, however, the exercise of the human rights embodied in the Constitution was often subordinated to public requirements which restrict them. ^{27/} Major reform has been called for with respect to the judiciary and the public service, especially because they do not reflect the ethnic composition of the population, with major repercussions in all sectors of public life. For instance, few defendants (mostly Hutu) can afford legal counsel before courts which consist mainly of Tutsi judges and magistrates. Discrimination in access to education and systematic extermination in the early 1970s of the Hutu intelligentsia have contributed to the lack of an inter-ethnic intelligentsia which would help bridge the two groups, and of politically credible representatives of the Hutu. On the other hand, affirmative action with regard to access to employment in public offices since June 1993 has resulted occasionally in reverse discrimination.

3. "Ethnic cleansing"

68. In the last few years, and in particular since March 1994, there have been incidents amounting to "ethnic cleansing" in areas such as Kamenge and Cibitoke, the latest ones reported having taken place as recently as mid-October 1994. The "balkanization" which such incidents can cause has

alarmed international observers. People have been asked repeatedly to move out of their neighbourhoods and have found themselves on the move ever since. Massacres have also been committed with that objective in mind.

4. Return

69. As discussed above, the Representative was told during his mission that in some cases people had started returning to their homes and regaining their properties and in some areas a project for the promotion of reconciliation and cohabitation was being run. As a positive sign, in some communes the population had assented to re-cohabitation and in others they had developed self-protection strategies. Some return projects had been implemented. International agencies, such as WFP, had been offering "return packages" to those who returned to their homes, but in early June 1994 this process had been interrupted, it seems, due to deteriorating security.

70. The authorities thought that restoration to the situation prior to the October 1993 events would not be possible in many areas. The fact that most of the Tutsi remained in the camps was attributed to the perceived need for continuous protection by the army. Many of the displaced Tutsi who spoke with the Representative mentioned that they could not return home because they were afraid of their Hutu neighbours. On the other hand, the point was often made that the Tutsi were being kept in the camps as much by their own quest for protection as for reasons of political manipulation by the Tutsi elites and on occasion the military. Attributing this to the threat posed by the Hutu was allegedly intended to give the Tutsi an alibi and a leverage in the political negotiations.

71. Representatives of the international agencies thought it was pointless to intervene in the camps of the displaced when in many cases the people could, in their view, return to their homes; they felt that remaining in camps would create dependency syndromes which should be avoided and would entangle them in a self-perpetuating situation. Already there were signs that the displaced were becoming less cooperative and less inclined to undertake self-help initiatives. For this reason the international agencies had initiated in several cases "community-oriented" assistance projects, directed to benefit at the same time those who returned and those who had remained home.

72. In the long run this situation will create immense problems. Where return to the home areas is considered impossible either due to entrenched insecurity or very deeply embedded fears, alternative solutions will have to be sought, in order that the rights, inter alia, to an adequate standard of living, property, education, family unity, privacy, work and the freedom from cruel, inhuman or degrading treatment can be fulfilled. One option would seem to be to turn over to the displaced the camps vacated by Rwandan refugees. This, however, is not uncontroversial, since some of these camps, and indeed the land which was being used by Rwandan refugees, could also be given to returning Burundian refugees. As mentioned earlier, returnees may not be able to return home immediately, as others have moved onto the lands they occupied prior to becoming refugees, in some cases as much as 20 years ago. It will be difficult to resolve this problem, given the population density and intensive use of land for agricultural purposes throughout the country.

5. Special problems affecting women and children

73. Observers have noted the serious psycho-social problems facing women and children affected by the crisis. Abuses against women, especially in the course of violent events, reportedly ranged from having seen one's children or husband killed to being raped and losing one's home and means of subsistence. Interviews on these subjects, in the course of a very short visit, are practically impossible, especially when they force a person to relate traumatic experiences without providing any immediate psycho-social assistance. Cultural inhibitions linked to subjects such as sex and the serious social and juridical implications of rape and violence against women compound the problem of lack of expression and foment deep hatreds. A whole generation of children is reportedly being raised in a culture of revenge. One organization working with children mentioned that inter-ethnic problems occasionally occur between children belonging to different groups, although all in all they get along well whenever integrated (e.g. in camps or schools).

74. Women seemed to play no role in the organization or representation of displaced persons camps. Whenever the Representative asked to speak to a few people representing the displaced, men usually stepped forward, even though an overwhelming number of the camp population were women and children. The consequences of this for distribution of food and supplies could easily be surmised.

75. Some of the most serious problems the displaced and dispersed populations generally face are in the health domain, largely because of the disruption of health services (the national health system is said to be operating at 50 per cent of its pre-crisis capacity). Children are particularly affected by chronic malnutrition, malaria, respiratory infections, diarrhoea and dysentery. Another serious problem affecting the population in general is that of approximately 20,000 children whose parents have died of AIDS. HIV infection is said to be higher in urban than in rural populations. Studies on internal displacement in other countries have shown that birth rates spiral upwards in refugee camps. This may well imply an increase in HIV infection and other sexually transmitted diseases, especially if health services are grossly inadequate. The right to health may well be jeopardized in those circumstances.

76. In the case of women in general, and women-headed households in particular, achieving a durable solution will be even more difficult than for other members of the society, since the general problem of lack of land is compounded by the fact that women do not inherit land either from their husbands or from their parents. Differences in the legal treatment of women or the absence of implementing measures to ensure fair treatment are violating human rights provisions proscribing discrimination on the basis of gender.

C. The role of the international community

77. The international community has been active in Burundi on the political, the humanitarian and the human rights levels. In the past 12 months there has been a continuous flow of missions and heightened activity. While the massacres of October 1993 were not prevented, another massacre, of the scale similar to the one that Rwanda experienced, has so far been averted; the

hypothesis that this is partly due to the attention and the concern of the international community in general and the United Nations in particular cannot be excluded. The following paragraphs describe the work of the international agencies present in Burundi. It must be noted, however, that with regard specifically to the displaced, there were serious gaps in the provision of international protection and assistance. While important reasons account for the reluctance of the agencies to become involved, such as the political exploitation of humanitarian aid and the problem of absence of responsibility for the internally displaced, the fact is that the internally displaced and dispersed in Burundi remain largely neglected.

78. After the crisis of October 1993 the Assistant Secretary-General for Political Affairs was dispatched to the country and shortly afterwards the Secretary-General appointed a Special Representative for Burundi. The Special Representative has been instrumental in facilitating dialogue and compromise in the political scene and in encouraging return to a normal institutional life. The OAU has sent a mission of protection and observation for the re-establishment of confidence in Burundi (MIPROBU), consisting at present of a force of approximately 40 officers, 28/ with a mandate for conflict resolution and national reconciliation. The Special Representative of the OAU participates as an observer and adviser to the political negotiations. As with his United Nations counterpart, his role has been instrumental in promoting restraint and moderation in the negotiations.

79. UNHCR was providing protection and assistance to approximately 250,000 Rwandan refugees at the end of August 1994, most of whom were in 8 camps. Together with implementing partners and other agencies it has organized several initiatives on behalf of 82,000 returnees and 16,000 displaced persons, with special reference to agriculture, shelter and community infrastructure. These initiatives have been focused primarily in areas of return of former Burundi refugees. Together with UNICEF it administers a programme of foster families for unaccompanied children coming from Rwanda. The High Commissioner has appointed a special envoy for Central Africa and has established an emergency response unit to strengthen operations in the region and at headquarters.

80. WFP is administering food assistance to approximately 550,000 displaced persons in Burundi. A scheduled reduction in the case-load and a reorientation towards rehabilitation and assistance upon return are projected for the future. WFP operations have been disrupted by the emergency at the refugee camp in Goma, Zaire, by breakdowns in the pipeline and by inefficient implementation by local implementing partners. It is expected nevertheless that as the situation is stabilizing in Rwanda and Burundi operations will return to normal.

81. In the context of its mandate, UNICEF is undertaking a variety of activities on behalf of internally displaced persons, such as sanitation and health projects in camps in Bujumbura. Other projects, such as the publication and distribution of peace and human rights education materials to primary schools, although not specifically designed for the displaced, have a direct impact on them.

82. The International Committee of the Red Cross (ICRC) was the first international agency to act to alleviate the plight of the internally displaced and the rest of the affected population of the country after the October 1993 events, especially in the medical field, by deploying teams of doctors and nurses at a time when other agencies were pulling out of the country. Its line of action was intervention at the colline level, and only as a last resort did it act in the camps of the displaced. Later it scaled down its assistance programmes for the displaced and handed over many of its activities to the United Nations. As the situation in the camps was worsening, the ICRC was contemplating the deployment of a team to reassess the situation of the internally displaced. The ICRC was also engaged in its usual protection activities (visits to detainees, humanitarian law training, tracing of family members).

83. UNDP facilitates coordination activities; in June 1994 it signed an agreement with the Government providing for support to the Government of its coordination of humanitarian assistance and its programme of rehabilitation, reconstruction and revitalization of the economy and solicited an inter-agency consolidated appeal to respond to the nutrition, health and sanitation needs of 250,000 beneficiaries. The emphasis is on medium- to long-term rehabilitation and development in institutional capacities, strengthening of the local administration, the budgetary programme, education, health and small reconstruction programmes in Karuzi and Gitega. The United Nations Volunteers (UNV) programme has also deployed volunteers to work with international agencies in the country.

84. The High Commissioner for Human Rights and the Centre for Human Rights have engaged in a series of activities since April 1994, in particular in accordance with the High Commissioner's mandate for preventive diplomacy. 29/ The High Commissioner undertook two missions to the country, in May and in August 1994, and signed an agreement with the Government on 2 September 1994 for the provision of a project of technical assistance and advisory services. One element of the project was education in human rights and peace for the youth, the judiciary, the military and the police, lawyers and the population at large. This initiative was to be integrated with relevant UNICEF and UNESCO projects. In implementing the project the Centre undertook a needs assessment mission for technical assistance in human rights training for law enforcement agencies in September 1994. Another element consisted of a programme for the strengthening of the judiciary.

85. The Representative met with a number of NGOs working in Burundi primarily in the area of humanitarian assistance and emergency relief, including, Médecins sans Frontières, International Federation of Red Cross and Red Crescent Societies and International Federation Terre des Hommes. Other NGOs, such as Action Aid, Caritas and the Federazione degli organismi cristiani per il servizio internazionale volontario (FOCSIV), were also active in the country. In addition, bilateral assistance by donor Governments (including France, Belgium, China, the United States, Switzerland and Egypt) and by the European Community Humanitarian Office was being given to Burundi.

86. The United Nations agencies have consistently maintained the position that coordination of humanitarian activities is the responsibility of the

Government. They have encouraged the Government over the past year to return to its normal functions and to reopen its schools and hospitals, instead of starting schools and medical facilities in the camps of the displaced that would target and benefit only one ethnic group.

87. Various problems were being encountered by the international agencies and the NGOs working in Burundi, mainly relating to maintenance of the level of humanitarian assistance towards the country and the security situation. The "ville-morte" operations and other incidents of violence since August 1994 had occasionally brought port operations to a standstill, interrupting the humanitarian relief chain on a few occasions. Humanitarian agencies reported shortages in supplies destined for the displaced, the returnees, the refugees and the other affected persons in the country, due to deflection of resources following the Rwanda crisis and general donor fatigue. Common criminality and insecurity affected relief workers, many of whom had been harassed and threatened. Following the assassination of a United Nations Volunteer, a staff member of UNHCR in Kirundo in August 1994, many NGOs chose to evacuate.

88. Major efforts were launched in Rwanda to provide emergency humanitarian assistance to the refugees and the displaced and to promote their return to their homes following the April 1994 events. The institutional structure at the end of September 1994 consisted of the Special Representative of the Secretary-General for Rwanda, the United Nations Rwanda Emergency Office (UNREO) headed by the UNDP resident representative in his capacity as resident coordinator, in collaboration with UNHCR, UNICEF, WFP, WHO, FAO, UNAMIR, ICRC and a large number of NGOs. 30/

89. The High Commissioner for Human Rights established an office in Rwanda in June 1994, which services among others the Special Rapporteur 31/ of the Commission and the Commission of Experts. 32/ The Special Rapporteur recommended in his report of 12 August 1994 that 20 human rights specialists be deployed to monitor the "humanitarian routes" established for the return of the refugees and the displaced and return sites. 33/ At the end of November 1994, 52 monitors had been deployed, one of their responsibilities being to facilitate the return of refugees and displaced persons and the rebuilding of civil society. In his progress report to the Security Council 34/ the Secretary-General reported that agreement had been reached among the humanitarian agencies to focus on facilitating the return of the internally displaced to their areas of origin since many camps were to become uninhabitable during the rainy season.

D. The quest for durable solutions

90. For several months prior to the visit of the Representative of the Secretary-General on internally displaced persons, protracted negotiations had been going on between the parties of the majority (called Forces of Democratic Change and including Frodebu and a few others) and the parties of the opposition (called Political Parties of the opposition and including Uprona and a few others) assisted by Church leaders and elders from the society and with Representatives of the Organization of African Unity and the United Nations Secretary-General acting as advisers. Negotiations had sometimes been distracted by extremist elements (students and unemployed from the one side and ex-Palipehutu and others from the other) which introduced

additional demands to the negotiation table which had threatened the talks with collapse. During the Representative's visit, for example, the (Tutsi) opposition was demanding that in addition to the elected President (almost certain to be Hutu) and the Prime Minister (from the opposition Tutsi), there should be a Vice-President also from the opposition. The fact that Burundi has not collapsed, especially since the April 1994 events and the subsequent advance and seizure of power by the Rwandan Patriotic Front in Rwanda, must be attributed to the leadership of the moderate and reconciliatory forces in the country.

91. In September 1994 parties from a wide spectrum of the majority and the opposition signed a "Convention of Government", which is defined as "an agreement concluded between the political parties for the establishment of institutions of 'consensus', the return to peace, security and confidence and the emergence of a state of law and economic rehabilitation of the country" (art. 4). According to this Convention, all the acts issued by the President of the Republic must be countersigned by the Prime Minister, who comes from a different "political family" from the President (art. 24). The President will have to work closely with the National Security Council, which is composed of the President, the Prime Minister and a number of other ministers and representatives of the political parties and the civil society. Overall membership of the National Security Council will have to be divided between the majority parties with 55 per cent and the minority parties with 45 per cent. The Council will deliberate on all presidential acts of political importance (such as declaration of war, foreign mediation or military intervention, the nomination of high-level military and civilian officers, the promulgation of laws, the recourse to referendum and the amendment of the Constitution) and is called to play a conciliatory role between the different institutions of the State if necessary (arts. 16 and 17). As with the composition of the Security Council, 55 per cent of the ministerial portfolios will be accorded to the parties of the majority and 45 per cent to the parties of the opposition. The entire Government establishment (though not the army nor the Ministry of Justice) is expected to be staffed on the basis of those percentages. On 5 October 1994 a Government was formed by the Prime Minister, along the lines prescribed by the Convention.

92. The Convention also assigns to the President a variety of responsibilities, including: a return to peace and security, the disarmament of civilians and the dismantling of militias from both sides, the return and rehabilitation of the displaced and the refugees in conditions of security, the organization of a national debate on the fundamental problems of the country with a view to adopting a national pact of peaceful cohabitation, education on peace, respect for the right to life, tolerance and democratic values, the undertaking of national and international investigations into the October 1993 events, dealing with the Burundian diaspora, the safeguarding of fundamental liberties of the person and the independence of the judiciary.

III. CONCLUSIONS AND RECOMMENDATIONS

A. The problem and prospects for solutions

93. The problems of internal displacement in Burundi emanate from the ethnic conflict, mostly between the Tutsi and the Hutu, largely orchestrated by their political elites. Durable solutions, therefore, have to be political with respect for fundamental human rights principles. Finding a formula that is mutually agreeable has proved exceedingly difficult as the conflict has come to assume a zero-sum nature.

94. The main elements of the confrontation between Hutu and Tutsi are closely correlated to the history of the nation, as described above. With remarkable consistency, this history was recounted over and over, during the Representative's mission, highlighting in particular instances of ethnically motivated assassinations of political leaders and the intercommunal violence and massacres that followed them. The Burundian especially lamented the demise of the monarchy which had symbolized the nation and maintained the unity of the country through a complex system of patron-client favours and obligations. Closely associated with the demise of the monarchy is a virtual collapse of the traditional system of social administration and leadership at all levels, leaving an open field for political entrepreneurs for whom there appeared to be a generalized mistrust throughout the country.

95. The nature of the ethnic composition of the country and the lopsided manner in which power is ethnically distributed seems to define the options available to the Burundians. As noted earlier, since the two major ethnic groups are intricately interwoven, partitioning the country along ethnic lines would be out of the question. And although the Hutu are an overwhelming majority favoured by electoral democracy, real power of the State in terms of the military and the economy remains firmly entrenched with the Tutsi. Short of a self-destructive violence which cannot leave either side victorious, functional compromise appears to be an imperative, with a view to long-term reform and emphasis on education in the meantime. This seems to centre on three major areas: land, the military, and the judiciary. The peace test has already failed once. It cannot fail for a second time.

96. Even in the case that peace is achieved, it can be expected that certain elements will continue to foment insecurity through terrorist actions and armed attacks. Disarmament of militias must therefore become a priority for the Government. Spontaneous violence between Tutsi and Hutu will also probably continue. The risk that these events will degenerate largely depends on the role and the attitude of the army. For this reason, it is important that the leadership of the forces of law and order maintain control of the armed forces, lest anarchy result. At the same time, the military must become more representative of the entire population.

97. Land issues will continue to have an impact on politics and stability. The management of land vacated by returning Rwandan refugees to Rwanda (of the old, mostly Tutsi, caseload) will be part of the political debate: tensions could rise with regard to whether this land should be allocated to Burundian returnees (Hutu) or to displaced persons (Tutsi). The issue of land and the position of returnees and displaced persons need to be addressed, with

recommendations on what legal reforms may be necessary and what administrative structures should be put in place to ensure impartial solutions to this intricate problem. Given the political implications any action in this field will have, assistance should be sought from United Nations agencies and other relevant expertise.

98. In terms of patterns of displacement Burundi presents an anomalous picture. In most other countries visited by the Representative the displaced tend to be members of disadvantaged groups and in general do not enjoy a special favour from the system. In the case of Burundi, however, the reverse is often true. The fact that Tutsi were in camps, rather than being evidence of their disfavour, was because they needed protection by the army. Paradoxically, however, being favoured has often been a source of misery for the displaced Tutsi. This is a fact that those in charge of the affairs of the country should realize and take responsibility for. On the other hand, politicians of all sides need to unequivocally support peace in place of hatred, and endeavour to liberate politics from ethnic cleavages and divisiveness.

99. If political stability holds, displaced populations will have more assurances to return home and start planting again, in which case assistance will be necessary for the reconstruction of destroyed houses and the planting of seeds and food crops. Any further psycho-social assistance will depend on such stability, since it requires a certain amount of hope for a better future, and the existence of an environment in which confidence in oneself and in one's neighbour can be rebuilt.

100. At the same time, reconstruction is inconceivable in a hostile environment. For that reason projects of pacification, reeducation and reconciliation which have already been initiated warrant more support and involvement by the international community, as well as frequent assessments and evaluations to ensure that their objectives are being met. Other peace initiatives should be actively explored, for instance, the possibility of promoting ethnic reconciliation through radio programmes, since the "rumour machine" is extremely powerful. ^{35/} How life in the communes can again be organized and whether the institution of ubusingantahe can be resurrected are at this stage difficult to judge. The need for a profound research in the area of community building in Burundi would seem indispensable. Non-governmental organizations could play an important role in promoting inter-ethnic dialogue at all levels.

101. A peculiarity of current social life in Burundi is the almost complete absence of social projects or plans for such projects. This will have to be changed, especially as far as the youth is concerned. In the words of one minister, the Burundian rarely take an initiative on their own, but as members of a group they can be very energetic. This should be channelled through the creation of grass-roots organizations to support the justice system or for purposes of economic rehabilitation and development.

B. International human rights standards

102. There can be no doubt that the civilian Government is positively disposed towards the protection of human rights. In 1994, it sponsored a resolution on

the human rights situation in Burundi and also acceded to seven human rights instruments. On the other hand, lack of progress in investigations and hostilities towards international missions of inquiry can be taken to mean that it also opposes a full disclosure of facts related to violence and human rights violations.

103. The analysis under chapter II.B shows that respect for human rights is especially vulnerable in Burundi. In addition, according to the Committee on the Elimination of Racial Discrimination no effective remedy for human rights violations exists and there is no effective prohibition of incitement to violence either in the armed forces and the police or among the general public. 36/ Strengthening human rights law and its implementation should be a central element in the new Government's policies.

104. For the reasons stated above, derogations from international human rights obligations, where permissible, should be resorted to only in extreme cases; the principle of proportionality should, in such cases of absolute necessity, be strictly observed and procedural requirement for such derogations should be followed meticulously.

105. Burundi should also accede to the Genocide Convention as a matter of priority. The concept of individual responsibility as enshrined in the Genocide Convention and further elaborated in connection with the notion of "crimes against humanity", 37/ could become an effective deterrent.

C. Women and children

106. Investing in the social and psychological rehabilitation of the women affected by the crisis is an important factor to be taken into account by the international relief and development agencies. For instance, women have rarely participated in the perpetration of massacres and have been targets of killings less often; for these reasons they remain the stable element of the nuclear family and the society. Women are furthermore the centre of subsistence activity in the camps and are playing a major role in the reconstruction of their homes. Since many women have become widows as a result of the violence, and displaced women heads-of-household are particularly numerous, their economic survival, and that of their children, will depend on their being able to earn a living and receive education and training if needed. Their being able to own and inherit land should also become a priority. Investment in the youth, which consists of over 50 per cent of the country, and not just the educated youth, appears to be a priority, if, for example, the formation of militias and guerrillas is to be curbed.

107. The role that education of women and children can play in this domain cannot be overemphasized. Notably, the adult literacy rate in 1990 was 50 per cent, with twice as many women as men being illiterate. 38/ Peace education projects, such as the ones undertaken by UNICEF, merit further support and follow-up. Those "women's groups for peace" which are already operational should be supported. Legal measures to improve the status of women especially as far as property and inheritance rights are concerned are urgently needed. Support in needs assessment and project implementation for any of the above could be provided by the AFWIC programme of UNIFEM, which is

based in Nairobi, and which has gained expertise, over the last few years, in the protection and empowerment of African women who have been displaced by crises. The World Bank and development agencies should be engaged as well.

D. Human rights activities

108. Education in human rights at all levels of the civil and military administration is crucial at this point in the history of the country. The project administered by the Advisory Services Branch of the Centre for Human Rights must be given more international staff to fulfil its stated goals in the promotion and protection of human rights. The project should be implemented in close cooperation with the international agencies in the country, in particular with UNHCR and UNICEF, and should be coordinated with the various activities undertaken by the office of the Special Representative of the Secretary-General. It should aim at capacity building within the Government and the provision of assistance with administration of resources and sound governance. Needs assessment missions such as the one undertaken by the Centre for Human Rights in September 1994 for the provision of technical assistance for the strengthening of law enforcement must be welcomed and encouraged and their recommendations must be given serious consideration.

109. In addition to this project there is also a need for a small-scale international presence which will monitor the humanitarian and human rights situation in the country, especially the situation of the internally displaced, liaise with the other international agencies and advise both the Special Representative of the Secretary-General and the Representative on internally displaced persons on the situation pertaining to their respective mandates, and maintain open channels of communication between these actors. Such an office could provide the necessary information to the Secretary-General for his annual reports to the Commission on Human Rights on the human rights situation in Burundi as well as the Representative on internally displaced persons and maintain links with other international and regional human rights forums.

110. Apart from the proposed small-scale presence, a monitoring mission has been called for by international NGOs and by the Special Representative of the Secretary-General on Burundi, 39/ which would coordinate the responses of the United Nations and the OAU, supplement the OAU mission in the country and act as a dissuasive presence, through reporting and intervention with the authorities to protect individuals and to prevent a deterioration of the human rights situation, and to facilitate by international observers in the country the process of national reconciliation. 40/ Questions were raised, however, about the deployment of an extensive monitoring mission at this time. Some felt that large numbers of international "witnesses" would be received with hostility and could jeopardize the presence of international agencies in the country.

111. At the same time there seems to be widespread agreement on the need for a formal investigation into the coup d'état, and the ensuing massacres, of October 1993, so that perpetrators can be identified and punished. This, however, poses a dilemma. On the one hand, the cause of peace requires broadening the bases of national consensus and reconciliation. On the other hand, identifying and punishing those responsible for the massacres seems to

be necessary for the restoration of confidence in the rule of law and the judicial system. 41/ Chronic feelings of revenge and a deeply entrenched tradition of killing as the only way of dealing with the "enemy" could best be addressed after such measures. The "Convention of Government" requires that no one who is implicated in any way whatsoever in these events could be a member of the Government or the National Assembly or hold a high-level position in Government, a requirement which cannot be fully satisfied without establishing the facts and allocating responsibility. In addressing this issue, the need for action should be balanced with the sensitivities involved and the serious political repercussions that such inquiries could have, even before any conclusions have been reached or made public. In this connection, the South African Truth Commission and the Tribunal on Rwanda provide models worth considering. One could also envisage a national judicial investigation made up of members of each of the country's population groups, with the assistance and collaboration of international experts/consultants. 42/

112. In these human rights activities, it is important to bear in mind that the internally displaced and dispersed populations are particularly vulnerable, being virtual hostages in the conflict. Whether they are the displaced Tutsis threatened by the majority Hutu, or the dispersed Hutu threatened by the minority Tutsis with the power of the military behind them, both groups fall into a vacuum of State responsibility. The precariousness of the situation is compounded by the cleavage within the State between the elected Government and the army, which is normally the arm of the Government. This is a situation which clearly calls for international attention, protection, and assistance. Indeed, the need goes beyond the normal human rights procedures and may warrant a more assertive international action in cooperation with all the pivotal actors.

E. International humanitarian, peace-making and peace-keeping operations

113. Resources for humanitarian aid and for other emergency responses in Burundi will have to be strengthened in order to meet ongoing needs, which for the moment are not expected to diminish. Since reductions in emergency aid can have serious political repercussions, they have to be avoided. Assistance will be required for the reactivation of the regular marketing channels for seeds and other farm inputs, detailed assessments of the affected populations, and with the resettlement of the displaced, where possible. International presence and aid are not evenly distributed throughout the country; Muramvya, for instance, seems to have been neglected by the agencies. Increased assistance must be connected to assurance of security for the humanitarian agencies both by the Government and the military.

114. It is important to caution that international humanitarian aid issues are being exploited by political parties for political ends. Reductions in food aid to displaced persons or reluctance on the part of international agencies to become involved with assistance to them is seen through ethnic lenses and criticized. International agencies find themselves struggling to avoid becoming pawns in the political game. In doing so they risk allowing the situation to distort their own assessment of humanitarian needs. In other words, while it is often true that the Tutsi displaced may be less needy in terms of food and security, and that their fears may be exaggerated, it cannot be excluded that in certain cases there will be serious and real problems.

The Representative fully appreciates the dilemmas frequently facing the agencies. But whatever the difficulties and shortcomings, it is worth noting that all government officials expressed appreciation for the increased international attention the country had been receiving lately.

115. It has to be noted also that the international agencies appeared to have been caught somewhat by surprise by the crisis of internal displacement in Burundi. This is understandable in a situation where competing needs are enormous and increasing in the region as a whole. Resources were directed towards addressing the needs in Goma and other camps for Rwandan refugees. Agencies in Burundi were left with fewer stocks and less means to address the humanitarian situation there and the dilemmas of how to prioritize the needs and which persons to care for first.

116. This is where the issue of mandate becomes crucial. With no one agency specifically mandated to cater for the internally displaced, comprehensiveness in addressing their needs in cases such as Burundi will remain elusive. It is not only a matter of allocating resources but also of assessing the true nature of the problem in the country. For this reason, it was suggested to the Representative that he dispatch a delegate to "advocate for the displaced", in other words, to pool information on needs assessments and current activities undertaken by the international agencies and the NGOs. The Representative considers this proposal as meriting serious consideration by the Commission.

117. In any event, representatives of the agencies suggested on various occasions that inter-agency cooperation could be strengthened to achieve at least a better assessment of needs, in particular in health and sanitation. There could also be a geographic distribution of responsibilities. International presence could become more visible in the camps of the displaced, while a meeting could be called with the participation of the Minister of Social Action, the agencies and the donors, to discuss possible ways of addressing these needs. Assistance to and protection for the internally displaced should be increased, while at the same time the authorities, in coordination with humanitarian agencies, should take the primary responsibility for placing administrative structures in the camps and for organizing the distribution of relief assistance. Humanitarian agencies should nevertheless supervise these arrangements and the deployment of monitors to encourage return, as in Rwanda, should also be considered. The agencies could help with the provision of technical expertise and know-how, not only for providing protection and assistance during the emergency phase, but also for facilitating reintegration, rehabilitation, and the resumption of normal life. While the creation of local NGOs should be encouraged and supported, international NGOs should also be urged to become involved in all these phases.

118. The various problems mentioned earlier with regard to the inevitable "politicization" of the provision of humanitarian assistance imply that such assistance has to be linked with sufficient international presence. The fear was, however, expressed that large-scale international military escorts would not be welcome and could heighten tensions and expose expatriate and local staff, unless it was decisive, well coordinated, and adequate to meet the need for effective humanitarian action.

119. Indeed, one heavily debated issue in Burundi is that of international military intervention to prevent another massacre or genocide similar to the one experienced in Rwanda. Whereas the parties of the majority have favoured such an intervention as a means to protect themselves, the army vehemently opposes it because it would mean loss of military power (the only way the Tutsi minority feels they can protect themselves). There is no easy answer to this question, although international observers have pointed out that peace solutions have to be found within the country and that no amount of outside force will have any impact in the long-term search for peace. Such military action is in any case very unlikely in the present international climate. Nevertheless, the potential for such action can have a persuasive force that should not be underestimated, if only as a last resort.

120. The international community must retain its unified approach to the problems currently facing the country. Until now several declarations by the Security Council, the European Union and the OAU have expressed their support for the moderate forces and have called for an early resumption and conclusion of the negotiations. A peaceful settlement and the re-establishment of peace have also been posed as the condition for the approval of loans and other development aid. Donors and other countries, as well as the international organizations, must continue to emphasize that the international community will simply not sit by and watch another tragedy of the magnitude of the massacres in Rwanda. Any number of legal and political options, ranging from individual sanctions to outright military intervention, are available to the Security Council and the General Assembly, which have already been seized with the situation in the country and are watching developments closely.

121. In addition to emergency preparedness and relief assistance, international agencies are already considering how to resume more long-term development work. Donors will have to consider that rapid economic development to counter unemployment and other economic hardships will be an important factor in the maintenance of peace.

122. It has been suggested that a comprehensive approach is one in which a variety of different but concerted measures are brought to bear in the effort to break the cycle of exile, return, internal displacement and exile. 43/ The ultimate goal of such an approach is to promote the overall stability of the society and respect for the rights of its citizens, and thus to remedy the factors causing displacement. The maintenance of peace and security, the promotion of economic and social development and respect for human rights must be considered essential elements of any fully comprehensive humanitarian approach. For this reason an analysis of the precise functions of all the components of the United Nations activities mentioned above (political, humanitarian, human rights, developmental), would seem indispensable. 44/ Actors in those sectors should benefit from the presence of the Special Representative of the Secretary-General for Burundi and his coordinating capacity.

F. Regional approaches

123. Burundi forms part of an entire region affected by a common problem of displacement, to which a solution also implies the need for a subregional approach. For this reason it has been recommended that a broader approach to

the question of national reconciliation should be strengthened and that a subregional conference to that effect should be convened; ^{45/} this initiative should be fully supported. The issue of displacement should form part and parcel of any such conference, as well as other measures or activities undertaken by the United Nations since refugees are threatening to become one of the most critical and complicated problems in Central Africa.

124. Regional approaches on the part of the United Nations should be further developed. At the moment, separate structures have been put in place in each of the countries to deal with the respective situations. In this connection, it could be useful to evaluate the role of the Special Envoys for Rwanda and Burundi of the Secretary-General and of the High Commissioner for Refugees in order to design ways of promoting comprehensive regional approaches.

125. The Organization of African Unity should also be urged to explore appropriate regional initiatives.

G. Concluding comment

126. The case of Burundi provides significant insights into the generic problem of internal displacement and the diverse ways in which it is manifested. When viewed comparatively with the situation in the other countries visited by the Representative of the Secretary-General, insights from the Burundi case become particularly instructive and useful in developing approaches to the problems in their appropriate national contexts.

127. In several of the countries visited - for instance, Somalia, Sudan, Sri Lanka, and the former Yugoslavia - the displaced were identifiable as large clusters of people in camps, uprooted from their homes, and divested of all their resource-base, as a result of which they were entirely dependent on humanitarian assistance and uncertain protection from the controlling authorities. In El Salvador, on the other hand, in the aftermath of the peace agreement, the internally displaced were largely villagers living in rural areas where they were still constrained by lack of land and vital services and under precarious security conditions. In Colombia, the displaced found their security in merging into the community to avoid being clearly identified. But since the communities into which they merged were equally poor and inadequately protected, the plight of the internally displaced and that of their host communities did not differ much. In a way, Burundi brought these various forms of internal displacement together. The displaced in the army-protected camps represented the typical form seen in many countries, while the dispersed were somewhat comparable to the displaced of El Salvador and Colombia.

128. There were, however, distinctive features to the situation of both the displaced and the dispersed in Burundi. Unlike the displaced in other countries whose source of insecurity was often both the military and the rebel forces in conflict situations, the displaced in Burundi were protected by the army. The dispersed, on the other hand, avoided the security forces for their own protection. But unlike the displaced of El Salvador or Colombia, they did not disappear into the rural villages or communities; instead, they disappeared into the hills, the marshes, and the valleys, away from the roads.

129. What accounts for the distinctive features in the Burundi case is the division between the Government, which is identified with the majority Hutu, and the army, which is identified with the minority Tutsi. Since the effective tool of control is the army, the Tutsi displaced depended on it for protection while the Hutus hid from it. The military is normally the effective arm of the Government; in Burundi, the two were on opposite sides.

130. This cleavage between the elected Government of the majority and the army representing the minority made Burundi a good example of the vacuum of responsibility normally associated with a national identity crisis. While this vacuum usually means that the Government or any other controlling authority fails to provide adequate protection and assistance for those under its sovereignty, in the case of Burundi, the crisis is a dual one because of the division between the Government and the army, with each providing protection and assistance to its group, while constituting a threat to the other group.

131. Ironically, both sides feel sufficiently threatened by the other and look to the international community for protection, although their precise needs, requests, and expectations differ with their particular circumstances. The Government and therefore the majority Hutu would go beyond assistance to emphasize protection, if need be through international military intervention, while the army and therefore the Tutsi would be content with material assistance and be strongly opposed to military presence.

132. Burundi thus represents a situation which needs international involvement to help both sides of a divided nation to provide protection and assistance to all its citizens and to help the country restore peace, harmony, a sense of collective belonging to the nation, and a common purpose in nation-building. It is a country where, despite the zero-sum character of the conflict, there is room for considerable creativity in addressing the national crisis. But this creativity has to be stimulated or facilitated by the mediatory role of outsiders.

133. It is noteworthy that these cleavages, though deeply entrenched, are more fictional or mythical than real, if physical or cultural characteristics are the determining factors. Besides, considerable intermarriage is said to have taken place. Whenever the Representative questioned the Burundians whether they could distinguish between the Tutsis and the Hutus, the answer was always highly qualified: Yes, but with a significant margin of error, sometimes specified as between 30-35 per cent. And as pointed out earlier, all Burundians speak the same language and are residentially intermingled. When the Representative asked whether there was an intellectual movement in the country to explode the divisive myths of ethnic identity, the answer was in the negative. The explanation given was that the genocidal massacres had deprived the nation of at least a generation of educated men and women who could have provided intellectual leadership in this area. As a result, the present leadership was said to be unusually young, and of course overburdened with pressing political problems and crises. Nevertheless, when pointed out to them, the Burundians easily recognize that much of what divides them is a function of perceptions that only partially reflect or explain their complex reality.

134. Perceptions are, however, real and often provide a compelling basis for action. Nevertheless, perceptions change with time and contexts. What the international community can do to assist Burundi is to redefine and restructure the context to allow alternative visions for the nation to come into focus. In many ways, the challenge for the people of Burundi is to restructure previously stratified power relationships to foster equity among ethnic groups while also building on the constructive aspects of their past. A salient aspect of this past is that Tutsis and Hutus lived together as neighbours, intermarried, and saw themselves first and foremost as Burundians, bound together by common history, language, culture, and now the challenge of nationhood. Protecting and assisting the internally displaced is only a microcosm of the challenge. Burundians need to feel that their Government and its army will protect them all equally and provide them with assistance without discrimination on any ground, not least ethnicity, and that the international community stands ready and willing to cooperate towards that common goal.

Notes

1/ See statement by the Minister for Human Rights and Refugees of Burundi to the forty-fifth session of the UNHCR Executive Committee on 6 October 1994.

2/ René Lemarchand, Burundi (1994), p. xii.

3/ Lemarchand, *ibid.*, p. 6.

4/ Article 8 of the Constitution. See Rapport d'évaluation des besoins en matière d'assistance technique dans le domaine des droits de l'homme au Burundi, following a Centre for Human Rights mission to that country from 16 to 22 April 1993.

5/ Lemarchand, *op. cit.*, pp. 4-5.

6/ United States Committee for Refugees (USCR), Transition in Burundi (1993), p. 5.

7/ The concept of "tribes", questionable though it may be in many cases, in the case of Burundi is totally inappropriate, since it suggests cultural entities that are horizontally structured.

8/ This reflects a deliberate effort to create and maintain Hutu and Tutsi ideologies, born in the political class shortly before independence in 1962.

9/ Lemarchand, *op. cit.*, p. 15.

10/ The Hima had been allegedly long looked down upon by the royal court and higher-class Tutsi. During Micombero's rule, regional splits among the Tutsi were said to have developed, as Tutsi from Bururi became more powerful. In particular, many joined the army, at first due to the relative poverty of their home area, later due to favouritism.

11/ Those killed were said to number 50,000 to 80,000. See for example William J. Butler and George Obiozor, "The Burundi Affair 1972", April 1973.

12/ USCR report, p. 12.

13/ Lemarchand, op. cit., p. 116.

14/ USCR report, p. 14.

15/ USCR report, p. 15.

16/ USCR report, p. 15.

17/ Lemarchand, op. cit., p. 165.

18/ This is compounded by the fact that both sides have an incentive in inflating the figures: the Hutu in order to demonstrate their need for more protection and the Tutsi in order to show that they have been victimized.

19/ Burundi has a very low per capita income which places it among the 36 poorest developing nations in the world.

20/ Lemarchand, op. cit., footnote 1, p. 1.

21/ See "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on his visit to Rwanda" (E/CN.4/1994/7/Add.1).

22/ At the time of the mission of the High Commissioner for Human Rights to Rwanda (11-12 May 1994), 2 million and 300,000 were estimated to be internally displaced and refugees respectively. See E/CN.4/S-3/3, para. 26.

23/ E/CN.4/1995/12 (12 August 1994).

24/ Preliminary report of the Independent Commission of Experts (S/1994/1125, Annex), p. 27.

25/ International Committee of the Red Cross (1958), p. 36.

26/ See also CERD/C/45/CRP.1/Add.1 and 3, para. 15.

27/ CERD/C/45/CRP.1/Add.1 and 3.

28/ Initially, the Government had asked for a force of 5,000 troops; this request was vehemently opposed by the opposition and was unpopular with the army.

29/ See General Assembly resolution 48/141, para. 4 (f).

30/ See "Report of the Secretary-General on the situation in Rwanda", (S/1994/665 of 13 May 1994).

31/ Appointed according to Commission resolution S-3/1 of 25 May 1994.

32/ Established according to Security Council resolution 935 (1994) of 1 July 1994.

33/ E/CN.4/1995/12, para. 42.

34/ See "Progress report of the Secretary-General on the United Nations Assistance Mission for Rwanda" (S/1994/1133 of 6 October 1994).

35/ Such a programme is currently operating from Addis Ababa.

36/ CERD/C/45/CRP.1/Add.1 and 3.

37/ See Commission of Experts on the former Yugoslavia, established by Security Council resolution 780 (1992) of 6 October 1992.

38/ UNDP Human Development Report 1994.

39/ See Report of the Secretary-General on Burundi, (S/1994/1152).

40/ See Amnesty International, document IOR 41/02/94 (May 1994).

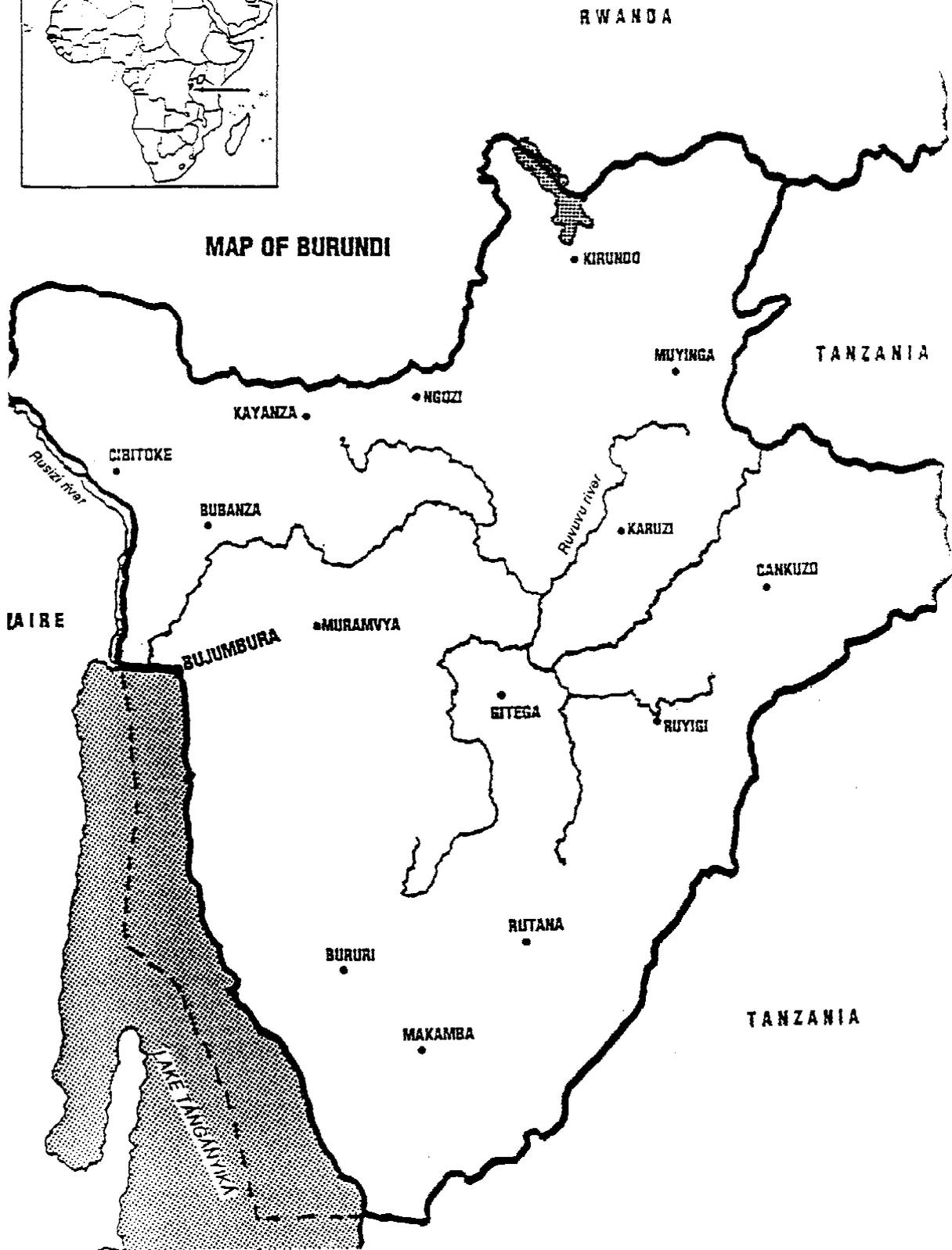
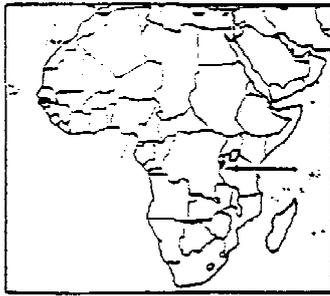
41/ See also CERD/C/45/CRP.1/Add. 1 and 3, para. 20.

42/ See also CCPR/C/79/Add.41.

43/ EC/1994/SCP/CRP.3 (3 May 1994).

44/ A number of incompatibilities between these responsibilities could otherwise arise. For instance, this could be the case with regard to the control of information on human rights abuses, which might be handled in one way by an investigation body and in another way by a mechanism of preventive diplomacy. For a discussion see UN document No. E/CN.4/Sub.2/1994/39.

45/ See S/1994/1133, para. 64.



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BUJUMBURA

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